WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE COUNCIL

Tuesday, 11 November 1997

Legislative Council

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

JURIES AMENDMENT BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

PETITION - URANIUM INDUSTRY

Hon Giz Watson presented a petition, by delivery to the Clerk, from 33 people requesting that the Legislative Council investigate and evaluate the acceptability of a uranium industry.

[See paper No 1000.]

PETITION - EUTHANASIA REFERENDUM

Hon Tom Stephens presented the following petition bearing the signatures of 210 persons -

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

We the undersigned residents of Western Australia respectfully commend to the attention of the House that:

1. Every act of euthanasia carried out with the approval of the State necessarily involves a judgement by the State that the person killed had a life that no longer mattered;

2. Inquiries into the legislation of so-called "strictly regulated voluntary euthanasia" by the House of Lords Select Committee on Medical Ethics (1994), the New York State Task Force on Life and the Law (1994), the Canadian Special Senate Select Committee on Euthanasia and Assisted Suicide (1995) and the Australian Senate Legal and Constitutional Legislation Committee (1996) each concluded that it is impossible to ensure adequate safeguards for voluntary euthanasia and that therefore legalising euthanasia will always create more victims than beneficiaries;

3. A referendum on euthanasia would, if successful, be a substantial step towards legalised euthanasia and therefore any bill for a referendum on euthanasia should be rejected as an attempt to remove the equal protection from intentional killing enjoyed by all Western Australians under existing law.

Your petitioners pray that the House will reject any Bill to legalise euthanasia including any Bill for a referendum for legalised euthanasia.

And your petitioners, as in duty bound, will every pray.

[See paper No 1001.]

PETITION - FREMANTLE EASTERN BYPASS

Hon J.A. Scott presented the following petition bearing the signatures of 1 232 persons -

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

We the undersigned residents of Western Australia are concerned that the proposed Fremantle Eastern Bypass will:

fragment and dislocate the communities of White Gum Valley and Beaconsfield;

increase vehicle emissions, affecting air quality and pollution levels;

result in increased run-off of petrochemicals, heavy metals and solvents into stormwater run-off, and ultimately into local waterways;

remove the school oval and green areas of White Gum Valley primary school;

threaten safety of school children and all pedestrians and road users due to increased traffic levels in the surrounds;

create increased traffic in feeder roads, adversely affecting residents; and

destroy remnant urban bushland at Clontarf Hill.

Your petitioners therefore humbly pray that the Legislative Council examine the need for the bypass in the light of the Perth Photochemical Smog Study and the Metropolitan Transport Strategy, and recommend the Eastern Bypass be deleted from the Metropolitan Region Scheme and alternative solutions be implemented.

And your petitioners as in duty bound, will every pray.

[See paper No 1002.]

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION - TWENTY-EIGHTH REPORT

Supreme Court Amendment Rules (No 2) 1997

Hon N.D. Griffiths presented the twenty-eighth report of the Joint Standing Committee on Delegated Legislation on the Supreme Court Amendment Rules (No 2) 1997, and on his motion it was resolved -

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

[See paper No 1003.]

MOTION - URGENCY

WorkSafe Western Australia- Management and Prosecution Policies

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

Dear Mr President

At today's sitting, it is my intention to move under SO 72 that the House, at its rising, adjourn until 9.00 am on 25 December 1997 for the purpose of discussing the management and prosecution policies of Worksafe.

Yours sincerely

Kim Chance
Member for the Agricultural Region

In order to discuss this matter, it will be necessary for at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

The PRESIDENT: I must raise the issue of the sub judice convention in which the House imposes a restriction on itself in matters awaiting or under adjudication of the courts. As members are aware, the convention represents the desire of Parliament to prevent comment and debate from exerting an influence on juries and from prejudicing the position of parties and witnesses in court proceedings. It is true to say that the discretion exercised by the Chair must be considered against the background of the inherent right and duty of the House under the Westminister system to debate any matter considered to be in the public interest.

I also recognise that freedom of speech is a fundamental right of a member of Parliament - without it members would not be able to carry out their duties. However, imposed on that freedom of speech by the sub judice convention is the restraint which recognises that the courts are the proper place to judge alleged breaches of the law.

Given my comments on the sub judice convention, I intend to ensure that this debate avoids any undue prejudice to proceedings currently before the courts. The dilemma that members must be aware of is that mere reference to a case is not in itself a breach of the sub judice convention, but to canvass the issues of a given case or to prejudge those issues is a breach of that convention. I have already raised the matter with Hon Kim Chance, who is aware of the rules, so my comments are directed to any other members who might wish to speak on this matter.

HON KIM CHANCE (Agricultural) [3.44 pm]: I move -

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

The convention of sub judice is an extremely interesting question and deserves brief mention. Certainly, it is not my opinion nor is it the opinion of the Opposition that in any way our actions should prejudice a matter before a court. However, I get a bit confused sometimes by this question because there are two cases in which prosecutions have already been launched by WorkSafe and about which there has been extensive coverage in great detail in the media after the prosecutions were filed. I wonder whether that kind of media coverage is likely to have a significant effect on the way the matters might ultimately be decided.

Our responsibility in this Parliament is a separate matter. The Westminster convention that the President has

mentioned is that the Parliament should not be seen to be acting in a manner that can influence the outcome of a court action of any kind.

Hon Peter Foss interjected.

Hon KIM CHANCE: Quite. I will endeavour to prevent myself from straying into that area.

On the general question of WorkSafe management and prosecution policies I would be the first to agree that occupational health and safety in the farm workplace must be improved both substantially and immediately. We as members of the general public or as members of Parliament cannot continue to tolerate the appalling number of deaths and accidents causing mutilation that occur every year on farms at a rate now in gross disproportion to the percentage of farmers and farm workers in the work force. I have quoted those figures in this place on an earlier occasion, so I will not mention them today.

I support WorkSafe in any positive and even aggressive campaign it might choose to run that is aimed at making farms safer places on which to work and live. One of the unusual characteristics of the farm environment is that it is at once a place where people work and a place where they live. Some of the most horrific farm accidents, particularly those involving young children, have occurred as a result of that combination of two factors. Children accompany their dad or brother to an area where work is being done, sometimes with very dangerous machinery. It is inevitable that from time to time, because of a lapse of concentration of perhaps a second or two, a child could be severely injured if not killed.

I have long been a strong supporter of FarmSafe, as distinct from WorkSafe. The organisation is headed by Don Sutherland and presents a positive and active safety message. The motion is not only about farms in isolation but also the manner in which WorkSafe Western Australia interprets and executes its Act generally. Are we getting good service from WorkSafe? I believe the answer to that rhetorical question is undeniably no. Recently the prosecution of a wheatbelt farmer has received a fair amount of media coverage. According to press reports the prosecution has been made under section 21(1)(b) of the Occupational Safety and Health Act.

The offences contained in section 21(1)(b) carry a maximum penalty of $100 000. Having had a very good look at section 21(1)(b) and bearing in mind the circumstances of a current prosecution, I find it difficult to support calls for the amendment of section 21(1)(b). If I may paraphrase section 21(1)(b), it provides that an employer may be liable for damage done to people who are not his or her employees as a result of carrying out that employer's responsibilities and tasks. It is no doubt a controversial matter, but let me describe a circumstance in which we would want that law to remain. I will give the example of a contractor spraying anti-graffiti spray on a wall in a public area. I am sorry that Hon Jim Scott has been called out on urgent parliamentary business because I recall that in this place a couple of years ago he raised the matter of anti-graffiti spray being sprayed on the wall of a public area and affecting people. I understand that the sprays are very similar to automotive paint in that they contain isocyanates. These have been banned completely in the United States and Europe.

Normally automotive paints are confined to a spray booth, yet we allow isocyanates to be sprayed in a public area. It is necessary to have the current wording of section 21(1)(b) to provide protection to the public from improper use of such a dangerous chemical as isocyanates in a public area. The law does not bother me and I do not want to see it amended. I am concerned about the way in which the law is being interpreted by WorkSafe and its general prosecution policy.

Hon E.J. Charlton: How long do you think that policy has been apparent?

Hon KIM CHANCE: Section 21(1)(b) has been in the legislation for a long time. The execution of policy is dependent on the attitude of ultimately the CEO. The CEO may change his view on how prosecutions should be carried out as a result of his response to situations he sees before him. I understand why the Minister asked the question. I understand from media reports that there is a formal prosecution policy. However, the discretion still remains with the CEO. The Attorney General shakes his head as if to say no. The fact is that that is correct; the CEO of WorkSafe has a considerable degree of discretion.

Hon Peter Foss: Where in the Act is the power for the commissioner to exercise discretion over an individual complainant?

Hon KIM CHANCE: It may not be specified in the Act.

The PRESIDENT: Order, members! There is too much audible conversation.

Hon KIM CHANCE: I will not get caught up in this. Members opposite know clearly that the execution of legislation by a CEO or staff members of an organisation rests entirely upon a decision of the CEO on the likely success of a prosecution should it be launched. That is where the discretion lies. That is fundamentally not the issue.

I do not need to resort to referring to specific cases. We have seen media reports on more than one occasion when prosecutions have been launched in circumstances that no right thinking person could endorse.

Hon E.J. Charlton: Do you think the commissioner should go?

Hon KIM CHANCE: I do.

Hon E.J. Charlton: Do you think he should never have been put there in the first place?

Hon KIM CHANCE: That is another matter.

Hon E.J. Charlton: I want you to tell me.

Hon KIM CHANCE: I do not know the answer to the question.

The PRESIDENT: Order, members!

Hon KIM CHANCE: I have seen media reports about cases, which I cannot go into in any detail obviously as a result of the convention of sub judice. One could reasonably describe the decisions to prosecute as the most cold blooded, heartless and just plain dumb I have seen in many, many years.

The PRESIDENT: Order! It is not unreasonable for the member to use those terms in respect of general issues but he cannot relate them or tie them to any cases currently under consideration. I know he was trying not to, but I re-emphasise that point. What he is saying does not breach the rule so long as he does not refer to current cases.

Hon KIM CHANCE: I thought I might have found an out by referring to the fact that there is more than one case so that the specific was not involved. Nonetheless, in the public administration of laws which were set out to improve the industrial safety outcomes of any workplace, I must wonder whether prosecutions which do not have public support are serving a public interest. We must ask whether the person who made those decisions should continue to be in a position where he can do that. We must ask ourselves the question: Is this the kind of outcome we expect from our occupational health and safety laws? I believe that our occupational health and safety laws are intended to make our workplaces safer, not to impose what threatens to be a very serious division between WorkSafe with the administration of our health and safety laws and the rural community as a whole.

There is every possibility that we are not talking simply about the rural community. The issue could spread across much wider areas. Three-quarters of an hour ago I was talking to a Geraldton fisherman who said, when he learnt that I was to speak on this subject, "I wish you would speak also on behalf of the fishing industry. We have had prosecutions in the industry that nobody could make sense of; they are simply without foundation."

It is one thing to have an aggressive policy. I am not necessarily critical of any CEO who goes out to make a point. One could even argue that the publicity of one or two recent cases will make people more aware of farm safety. My argument is that it would be a hell of a price to pay if one were caught in those same circumstances. Even allowing for the possibility that some good may come out of it, the pain which may be caused an employer who has had a child accidentally injured or killed is almost too bad to imagine. The reason we have penalties in any legislation is to act as a deterrent. If an employer who is also a father had a child injured or killed in a farm workplace accident, the deterrent would be pretty clear. Why would we want to pursue that father or mother, or whoever the employer might be, with a penalty under the Act?

Hon E.J. Charlton: If we were going to be consistent we would do it with every accident, not only accidents in the workplace.

Hon KIM CHANCE: That is an interesting point. I was asked the other day whether the Minister for Transport, if he were found to be speeding in a motor vehicle on a public road, which I know he would never do -

Hon Ljiljanna Ravlich: Highly unlikely.

Hon Peter Foss: He has not done that for two years.

Hon KIM CHANCE: - could be found to be endangering his own safety under the Occupational Health, Safety and Welfare Act. I said that I would put it to the Minister for Transport to see if he could advise me. It is an issue any one of us might find ourselves inadvertently involved in.

HON B.K. DONALDSON (Agricultural) [4.01 pm]: It is fitting that we debate this issue as an urgency motion, although it is unfortunate that this situation has developed before it is looked at. Some confusion exists not just in the regulations but in the Act about the duty of care that begs some questions to be asked. There is a definite need for change. I do not profess to be a lawyer, although having been an employer of farm labour for 35 or 40 years and having employed either contractors or full time and part time employees, I can remember only once in that time ever

having to utilise the workers' compensation system for one of my employees. Many farmers in my area would be in the same boat. That is probably through good luck, as farm workers use machinery every day and it is getting bigger and more dangerous. People become complacent in the use of that machinery. One can tell somebody what are the rules but as the days and months go by people become complacent and we have human error, or human error in the legal jargon.

Hon E.J. Charlton: The other factor is that a farm is not only a workplace but also a home, a recreation area and a number of others things for which the rest of society have separate areas. That is where we need to address this serious issue.

Hon B.K. DONALDSON: The Minister for Transport and I work as a team. Some of the statistics are misleading. I understand that the statistics relating to accidents in the farm sector include tragic accidents that have occurred outside of agriculture or horticulture. Those figures are rubbery.

Hon Ljiljanna Ravlich: Can we get any figures from the Government that are not rubbery?

Hon B.K. DONALDSON: Hon Ljiljanna Ravlich has made a rather stupid interjection that I will ignore.

Hon N.F. Moore: She cannot help herself.

Hon B.K. DONALDSON: I will be interested to see a breakdown of those statistics. The most famous case on the duty of care and foreseeability is Donoghue v Stevenson. That case was decided in the House of Lords and the Privy Council by five judges. It related to the purchase of a bottle of ginger ale that contained the decomposed remains of a snail. I encourage members to get a copy of that judgment. I will not incorporate it into *Hansard* as it comprises about 300 pages. In a 3:2 judgment the comments of Lords Atkin and Macmillan underpin the general legal principle behind the laws of negligence; that is, the duty of care and foreseeability. They state clearly that human errancy is involved and also public interest. Lord Macmillan stated -

> That the law takes no cognizance of carelessness in the abstract. It concerns itself with carelessness only where there is a duty to take care and where failure in that duty has caused damage. In such circumstances carelessness assumes the legal quality of negligence and entails the consequences in law of negligence.

Lord Macmillan also referred to human errorr. Lord Atkin was more specific and posed the question of duty of care in relation to a neighbour. He stated -

> But acts or omissions which any moral code would censure cannot in a practical world be treated so as to give a right to every person injured by them to demand relief.

That case provides a lot of reading and is most absorbing to a non-lawyer, especially in the light of what I know the Attorney General will say about that principle being further advanced by a High Court ruling some years later.

That highlights a difficulty with contracting out. For example, if a local council contracts out its waste management services the contractor has a duty of care to his or her employee. However, the duty of care extends further, and I would like the Attorney General to clarify this when he responds. If the council supplies the landfill site does the duty of care extend back to the council when that contractor's employees come onto the landfill site to dispose of the waste? We seem to have a long piece of string when we apply this duty of care principle. No public interest is accorded within this section of the Act.

The other important issue which Hon Kim Chance mentioned related to the prosecution policies of WorkSafe. WorkSafe needs to be more respectful of the circumstances in which people find themselves because of the type of equipment and technology that is used. I do not believe that people set out to injure themselves. We can keep reminding people of their responsibilities while operating equipment in the workplace, even in an office where people leave telephone cords or wires exposed so that people can trip over them and be injured. This is not confined only to the farming sector. WorkSafe's prosecution policy must be examined closely. The policy was probably established five or six years ago. We need to ensure it is reviewed. This review of the Act is timely. Submissions must be made by 17 February next year, and I encourage those involved in ensuring employees have safe workplaces to make a submission. Also, I welcome the review of the prosecution policy that has been applied for a number of years. It is out of date and should be looked at. Public interest should be included in the considerations of that review.

HON LJILJANNA RAVLICH (East Metropolitan) [4.10 pm]: I reaffirm the Australian Labor Party's support for safe worksites and its belief that every worker in this State has the right to work in a safe environment. Hon Bruce Donaldson commented earlier that it has taken this unfortunate situation for WorkSafe to be looked into, particularly its prosecution area.

Members on this side of the Chamber have been trying to raise the awareness of this House about the difficulties

associated with WorkSafe WA for a long time, and since I have been a member it has been at the forefront of my concerns. An unfortunate accident resulting in the death of a young girl on a farm may now be used as the basis for an investigation into WorkSafe WA. I am concerned that this situation should be the catalyst for an investigation, rather than the general concerns voiced in this place by members on this side of the House time and time again. I wonder whether the lobby group, the interests of the National Party, and the fact that it is in coalition with this Government, have led to this investigation. That should not be the reason for this investigation. The motivation for a review of WorkSafe should be a death or injury resulting from a workplace accident. My concern is that the investigation will focus on the issue of prosecutions, whereas I believe very strongly that a review should be held of the whole of the operations of WorkSafe and, in particular, the actions of Commissioner Neil Bartholomaeus.

I am concerned that WorkSafe WA has not been responding to the calls of unions about unsafe worksites. This has the potential to result in industrial accidents, and flies in the face of the mission of WorkSafe WA and its vision of reducing the number of accidents by at least 50 per cent by the year 2000 to a level lower than that in June 1995. It also goes against the functions of WorkSafe to promote and secure the safety and health of persons at work, protect persons at work against hazards and assist in providing safe and hygienic work environments. The fact that Neil Bartholomaeus has given an instruction to his inspectors not to respond to union calls to investigate safety breaches on worksites is of enormous concern. On 14 June 1997, at a multistorey construction site in Victoria Park the union safety officer identified 25 safety breaches. WorkSafe WA was called and it took a number of telephone calls before somebody came to the site. The industrial inspector recorded only two safety breaches after his inspection. Those breaches were not followed up and it took some effort to get the inspector on site again. It is appalling that only two notices were issued when 25 safety breaches had been identified.

I am concerned about the reactive nature of WorkSafe WA, as opposed to its inspecting workplaces. I am concerned that the inspectorate is getting weaker rather than stronger and, therefore, WorkSafe inspectors are on the scene only after an accident has happened. I know WorkSafe cannot be in all places at all times but, for example, Hon Norm Kelly asked a question a few weeks ago about the number of inspections WorkSafe had conducted in the hairdressing industry over the past year. It was a total of five inspections for the whole year, and yet one of WorkSafe's functions, as the third highest priority, is to assist in securing safe and hygienic work environments. That it carried out only five inspections in one year is absolutely appalling.

It is also appalling that some of the resources of WorkSafe are being diverted from WorkSafe WA into what is commonly known as WorkSafe International. I understand there is a subprogram in WorkSafe for promoting safe work practices offshore. The strategy under that international project in the best practices program aims to support a network of occupational health and safety service and product providers and to develop supportive government to government links in occupational health and safety. I suspect that most Western Australians would want occupational health and safety issues in Western Australia addressed prior to WorkSafe selling the message offshore. My concern is that WorkSafe WA may be diverting resources, which should be used as part of its inspection function, to generate income offshore. It is of enormous concern to me and it needs to be seriously looked at. In the past, allegations of corruption have been made in relation to the construction branch of WorkSafe. There was also the matter of the chief executive officer of WorkSafe making accusations against Alannah MacTiernan last year, as recorded in the *Sunday Times*. I understand a question was subsequently asked in Parliament.

I do not believe WorkSafe WA is delivering safe workplaces in this State. Its policies and structure need to be carefully looked at. This matter was probably brought to a head when Commissioner Bartholomaeus gave the instruction that industrial inspectors should not respond to calls from unions. I subsequently wrote to the Commissioner for Public Sector Standards and outlined my concern about WorkSafe not meeting its objectives and my concerns about the CEO. That was four months ago. I received a courtesy response stating that the commissioner would look into the matter and speak to the Premier. Apart from that, I have not received a response from the Commissioner for Public Sector Standards. It is of concern to me, and I know that other people have written to the Ombudsman and the commissioner, and they have not received a response. In my correspondence, I sought a full inquiry into the activities of WorkSafe Western Australia and Commissioner Bartholomaeus. I do not believe for one moment that it is adequate to look at only one aspect of WorkSafe - prosecutions. We are concerned about fatalities and injuries across all industries. We want a full inquiry into the activities of WorkSafe Western Australia and we will not be satisfied until we manage to achieve that in the interests of all Western Australian workers.

HON PETER FOSS (East Metropolitan - Attorney General) [4.20 pm]: I support the motion in so far as it refers to prosecution policies, because there is a prosecution policy. That policy was introduced in 1991 and resulted from discussions between the former Minister, Mrs Henderson, and the Trades and Labor Council.

Hon Kim Chance: And the CCI.

Hon PETER FOSS: It was later taken to the Chamber of Commerce and Industry and agreed to. One part of the policy which we find particularly unsatisfactory is part 4, which states -

> Where an inspector obtains sufficient evidence to establish a p*rima facie* case, and there is a reasonable prospect of a conviction, prosecution action will be initiated by WorkSafe Western Australia in circumstances including -

Paragraph (ii) states -

> where an alleged breach of the Occupational Safety and Health Act or Regulations either has resulted, or could have resulted, in a fatality or serious injury;

That policy does not provide a discretion. I do not wish to talk about a specific matter, but an inspector who obtained that sort of information should take legal advice, and if that legal advice was that there was sufficient evidence to establish a prima facie case and there was a reasonable prospect of a conviction, he would have no discretion, because prosecution action would be initiated.

That policy is immature and should be improved, in line with other prosecution policies which the Director of Public Prosecutions has since issued, which are much better. The proof of the pudding is in the eating, and it has become clear to the Government that the policy needs to be reviewed. That review is almost complete, and the changes to the policy will contain, among other things, a public interest test.

Hon Kim Chance: Why do you think it has taken so long for these absurd cases to come up? Why have we gone for so many years without everything going haywire?

Hon PETER FOSS: I will not speculate on why it has happened. I believe the policy is flawed, the Government has accepted that view, and the policy will be changed. There are many such cases. The case of Horne v Horne arose from a decision of the federal Family Court many years ago that changed the rules. Sometimes these cases do not show up for one reason or another. The prosecution policy is flawed and will be changed.

The current policy does not provide a discretion. Once an inspector has brought a complaint in accordance with the policy, it is improper to seek to influence his view. It is the same with the police. It is up to an individual police officer to decide whether to prosecute in accordance with the police prosecutions policy, and although it is quite proper to point out to that officer any matters that should be taken into consideration, it is improper to try to influence that person if he has acted in accordance with that policy. However, if the prosecutions policy had been changed since the prosecution was first brought forward, it would be appropriate for the person, in deciding whether to proceed with the prosecution, to consider the new policy.

Hon Kim Chance: The officer who was undertaking the investigation?

Hon PETER FOSS: Yes - the person who was bringing the complaint.

Hon Kim Chance: In some recent cases, the officer who was responsible for conducting the inspection also made the recommendation to prosecute.

Hon PETER FOSS: I do not know about that.

Hon Kim Chance: There is some speculation about that point.

Hon PETER FOSS: The important thing is that the current policy does not have an overriding discretion. That is not appropriate. It is not consistent with the policy of the Director of Public Prosecutions. The review is close to completion, and a new policy will be introduced. It will be appropriate for the complainant to take into account that new policy when deciding whether to proceed with a prosecution. I was not surprised to hear Hon Ljiljanna Ravlich tell us again why we should prosecute everyone. Having heard her speech, I can understand why this policy is in these terms; it sounds like the speech she made. I seek leave to table this policy.

Leave granted. [See paper No 1004.].

Hon PETER FOSS: When this policy was introduced, it was published in full in 12 000 copies of SafetyLine, and a further 25 000 copies have been distributed since. The copy that I tabled was obtained from the Internet. The policy has been distributed widely.

Hon Ljiljanna Ravlich: How many people have a computer?

Hon PETER FOSS: It is important to note that the State Government has provided a $250 000 grant to the Western Australian Farmers Federation over the past three years for the development of a code of practice for farmers. In addition to the question of prosecution is the question of getting farmers to look after themselves. As Hon Kim Chance said, farms are one of the areas in which the highest number of serious injuries occur. In 1997-98, the State Government is providing a grant of $85 000 to FarmSafe Western Australia to support programs on farm safety.

In addition to direct financial support, WorkSafe has produced numerous publications about farm safety. Two examples of its current publications are "Safety on the Farm" and "Safe Use of Farm Tractors", and 30 000 copies of those publications have been made available to the farming community free of charge. WorkSafe has also established a ThinkSafe Towns program. Collie is the first ThinkSafe Town, and several other towns in the south west and mid west are keen to follow Collie's example.

We must try to persuade people to be responsible for their own safety, because that is the best way of improving safety on farms. I am aware that farmers are often their own worst enemies. I recall from my time as a lawyer that as soon as a safety guard was put onto an agricultural machine, the first thing the farmer would do is take it off.

Hon Kim Chance: That is often because the guard is in itself a risk to safety.

Hon PETER FOSS: In most cases it is because the guard gets in the way when undertaking regular maintenance. I am pleased to say that that attitude is changing, and farmers are becoming increasingly conscious of their own safety. However, they are still engaging in a hazardous occupation, and too many farmers are suffering serious injury.

The Government is working towards using both the carrot and the stick, and we believe that this change in the prosecution policy will provide the proper balance. The transfer of that prosecution policy from prosecuting employers for failing to have regard for the safety of their employees to the farming situation may not be absolutely appropriate, but I remind members that if they drive when they are drunk and kill a passenger in their car, they will be prosecuted. It will not be a question of the driver saying that he has suffered enough in losing his loved ones; he will be prosecuted. It may not be appropriate at the moment to apply this policy to farming situations, but I believe that in time people will realise that they need to reach a state of maturity with regard to their own safety. At the moment, we must persuade farmers to look after their safety rather than prosecute them. The Government is striking a correct balance, and if WorkSafe has caused some criticism it is because of our prosecution policy, which we intend to revise.

HON MARK NEVILL (Mining and Pastoral) [4.30 pm]: I have received a couple of letters and a couple of telephone calls about this case. Therefore, I am fairly well informed about the circumstances surrounding it. We must juxtapose that against the high level of risk on farms in Western Australia. This is a tragic case for Mr Thorpe, and it is an appalling example of the way we press home the full power of the law.

Motion lapsed, pursuant to standing orders.

MOTION - SELECT COMMITTEE ON NATIVE TITLE RIGHTS IN WESTERN AUSTRALIA

Report - Extension of Time

Hon Tom Stephens presented a report from the Select Committee on Native Title Rights requesting that the time in which it had to report be extended from 27 November 1997 to 31 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 1005.]

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL

Committee

Resumed from 23 October. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

Progress was reported after clause 6, as amended, had been agreed to.

Clause 7: Section 10 repealed and a section substituted; members of Board cease to hold office -

Hon BOB THOMAS: I move -

Page 6, after line 23 - To insert the following new paragraphs -

(b) at least 2 of the members shall be drawn from persons acceptable to one or more of the bodies named in subsection (1)(a), (1)(b), (1)(c), (1)(d), (1)(e) or (1)(f); and

(c) at least 2 of the members shall be drawn from persons acceptable to one or more of the bodies named in subsection (1)(g), (1)(h) or (1)(i).

This amendment is necessary to ensure that the new board can draw on people of sufficient experience to allow the

board to deal with the issues that come before it. We agree that the Minister should consult with the organisations listed in this clause. However, it is important that both employer and employee organisations have at least two people acceptable to them appointed to the board. We do not say that these members should be representatives of or nominated by those organisations. We say that in the course of his or her consultation with those organisations the Minister should ensure that at least two members of the board are acceptable to both employer and employee organisations. The Opposition supports subclause (3), which indicates that one of the independent members shall be appointed as chairperson of the board.

Hon LJILJANNA RAVLICH: I support the amendment. I am very concerned about the Government's ability to ensure that it can appoint board members who are not acceptable to employee organisations, and we would be concerned if that were the case. The Government has gone to great lengths to ensure that union involvement is minimised in the training arena and that basically unions are not represented on any major decision making groups. It is very important not only that the groups be consulted, but also that the persons appointed to this board be acceptable to one or more of the bodies named in paragraphs (g), (h) and (i) of proposed section 10(1). I support the amendment.

Hon HELEN HODGSON: I have tried to place this amendment and clause within the context of the Bill as a whole. The Australian Democrats' concerns on this Bill have a slightly different focus from concerns expressed by other members. Under the Bill the Minister will be required to consult with the organisations listed. The clause states that the board shall consist of seven members appointed after consultation with those bodies. How will that consultation be undertaken, and how will we be sure that the consultation is a genuine consultative process?

I have seen a copy of a letter signed by both unions and employer associations, if I can call them that, listed in the Bill; namely, the Electrical Contractors Association, the Housing Industry Association, the Master Builders Association of WA, the Master Painters Association, the Master Plumbers Association, the Metal and Engineering Workers Union and the Operative Painters and Decorators Union. All these bodies felt that they should be involved in the nomination of the choice of persons to sit on the board. They represent the major part of all sectors of the industry and are in the best position to nominate suitable persons. The correspondence reads -

> Without the organisations being the nominating agents, there is an ever present risk of appointments being made on a political basis rather than an industry needs basis. While this may not be a problem with appointments made by the present government, future governments of perhaps a different persuasion, may make appointments which are less than desirable to employers or yourself.

The bodies involved said they definitely want to be consulted. I have some difficulty with the legislation as it expresses that consultative process in vague terms. It might involve as little as placing the final list before these organisations and saying, "This is who will be on the board."

The Minister for Employment and Training has said that the intention is that the board's membership will not be lopsided, and that this will ensure that the board will operate effectively. In earlier debate, the Minister referred to the fact that she has written to the Trades and Labor Council asking it to nominate a representative to serve on the State Training Board; this reference is found on page 6243 of *Hansard*. Although the Minister indicated that she intends to consult properly, those comments applied to a totally different board from the BCITF Board. That comment, although made in debate on this Bill, related to other legislation.

I am aware of some disquiet about the current operations of the board because of the representation of sectorial interests. The Hitchen report stated that the Act "should not prescribe specific organisations for membership to the board, but should identify in general terms the skills and experience members of the board should have". The Bill complies with the first comment because it has not prescribed the organisations to provide board members; in fact, it is moving towards prescribing the individuals. However, the skills and experience of the members of the board are not prescribed.

It is important that the board members are known and respected within the industry as having the skills necessary to operate effectively. Also, those issues are raised in a document released by the Public Sector Management Office concerned with the criteria for the appointment to boards. It says that members should have relevant attributes and skills. Examples are given. It then outlines the consultative process and refers to how it should be undertaken.

My main concern about the clause as currently drafted is that it does not outline the consultation which must be undertaken. An element of the proposed amendment will ensure that board members are acceptable to the organisations which have an interest in the outcomes from, and operations of, the board. Although organisational representation will be removed directly from this board, one or more of the organisations must accept the appointment of members of the board. Therefore, at least a screening mechanism will ensure that these bodies have a real input to the process of board member appointment. I support the amendment.

Hon N.F. MOORE: I seek your ruling, Mr Chairman, in that this amendment is contrary to the principle of the Bill. The second reading speech indicates that the Bill has objectives relating to basic principles, one of which is to create a board which is non-representative. The clear intent of the Bill is to ensure that such a board is created. This amendment is contrary to the principle of the Bill as agreed to by the House.

Ruling by the Chairman

The CHAIRMAN: I rule that the amendments, as they appear on the Supplementary Notice Paper, and as considered by the Clerk, are in order.

Hon N.F. MOORE: Mr Chairman, I am not sure whether I am at liberty to know your reasons for that ruling, but I am interested in them.

The CHAIRMAN: My ruling is based on the fact that the amendments which appear on the paper are not contrary to the policy of the Bill as adopted by the second reading.

Committee Resumed

Hon N.F. MOORE: Mr Chairman, the Bill's clear policy is that we will create a non-representative board. I do not propose to move dissent from your ruling. However, if we agree to the amendment, we will change the intent of the legislation as agreed to by the House in the second reading.

Hon Bob Thomas' amendment will do a number of things. It requires that two persons be appointed who are acceptable to the employer bodies listed in proposed section 10(1)(a) to (f), and two persons who are acceptable to the employee organisations outlined in paragraphs (g), (h) and (i). The Bill requires the Minister to consult with all of those organisation before making the ministerial appointments. We have heard it argued that the amount of consultation to take place is unknown, and the only way to ensure proper consultation is to give people the power to make the decision. Having listened long and hard over the years to definitions of consultation, I am aware that it involves discussing matters with people, seeking their views and then making up one's mind on the basis of the information provided.

Consultation does not involve talking to people and then accepting their decision; that is, giving people the power to make decisions, which could be outside anything the consultation process might raise. If all the amendments on the Notice Paper are passed, members might as well throw this legislation in the bin, because the organisation will remain as it is now and will not achieve what it was designed to achieve. The main reason the Government seeks to have the board as a non-representative board is that it has not worked as a representative board. If members do not believe me - it is clear that some do not - they should read the Hitchen report and talk to anybody in the industry who knows about this matter, who will tell them the board does not work. One of the main reasons the board does not work is the representative nature of the board and the fact that people on the board have a conflict of interest between the groups they represent and the decision making process about handing out money.

Hon Bob Thomas' amendment will create another problem. Paragraph (b) of the amendment proposes that at least two members shall be drawn from persons acceptable to one or more of the bodies named in subclause (1)(a) to (f). Under this amendment the Minister for Employment and Training must say to all the named organisations - all are employer organisations - that she wants two members who are acceptable to one or more of them. She might ask the Housing Industry Association Limited whether it agrees with those two names. If the association says it agrees, that will satisfy the requirements of the legislation: One organisation will have found the two persons acceptable. I do not think that is what the member meant to do. Similarly, paragraph (c) of the amendment provides that at least two members shall be drawn from persons acceptable to one or more of the bodies named in subclause (1)(g) to (i) - the three union organisations. The Minister will ask the union that is most friendly to her whether the two people she proposes to appoint, who are from that union, are acceptable to the union. The union will say yes; therefore, she will appoint them under the amended Act.

How dopey can members opposite get, if that is what they seek to achieve? I thought members opposite would seek across the board consultation, which is what the original Bill sought to achieve. If the Minister did that, and obtained the acceptance of one organisation from both sides of the equation, she would have hell to pay from the rest of them. She would say that on the basis of the amendment moved by the Labor Party, and presumably supported by the Democrats and the Greens, all she had to do was talk to one organisation.

Hon Ljiljanna Ravlich: If you are going to consult, there is no problem.

Hon N.F. MOORE: The Government is asking members to pass a Bill that requires consultation with all the organisations. The Opposition has moved an amendment proposing that if one organisation out of those two groups says to the Minister that the two persons it nominates are acceptable to it, the Minister can appoint them. What the Opposition seeks to do is not what will be achieved by this amendment. I do not know what is the answer to the

problem. If the amendment were changed to read that the members of the board were to be drawn from persons who were acceptable to all the bodies named in the Bill, the Minister would not appoint the board for the next 100 years. Can members imagine the HIA, the Construction Contractors Association, the Master Plumbers and Mechanical Services Association, the Master Painters Decorators and Signwriters Association, the Electrical Contractors Association and the Master Builders Association agreeing on two people? Even more difficult would be to get the Western Australian Builders Labourers, Painters and Plasterers Union of Workers to agree with the Construction, Mining, Energy, Timberyards, Sawmills and Woodworkers Union of Australia and the Australian Manufacturing Workers Union on the two persons to go on the board. All members have heard about demarcation. Under this amendment if there are three unions and two positions, all unions must agree on the appointments to the two positions.

If this amendment were amended in the way I suggest, the problem might be overcome. The clause will not work if it is amended in the way Hon Bob Thomas suggests, because all the Minister must do is get the names from one organisation. If the clause is amended to provide that all organisations must be agreeable, agreement will not be reached because not all will agree on two names. Perhaps there is a solution in the middle. I do not know.

The amendment will not work. The current situation does not work. The only solution to this problem is the Bill, which will require the Minister to consult. The Minister has given an undertaking that she will consult and that the composition of the board will represent people who know what they are talking about in training. That is what we are talking about - training. This is not an industrial relations Bill, but a training Bill. That is what the Minister will do when she appoints people after consulting with the groups that have an interest.

Hon Helen Hodgson quoted from a letter that was sent to me in 1994 when I was Minister for Employment and Training. It refers to the board being a representative one. The letter is signed by the Australian Workers Union, the Builders Labourers Federation and a few others. I find it interesting that it states that although this may not be a problem with appointments by the present Government - that refers to me - future Governments of a different persuasion may make appointments that are less than desirable to employees, employers or the Minister. That is an extraordinary letter. It is signed by Mr Blewitt from the AWU, Mr Young from the BLF, Mr Dobson from the Construction Contractors Association, Mr Saunders from the Metal and Engineering Workers Union, and Mr Harrison from the Operative Painters and Decorators Union. That letter states that if I were appointing the board, it would be fair and reasonable and it would be in the best interests of the industry and of training, but that if there were a Government of a different persuasion - I can imagine only that it would be a Labor Government - the same sort of appointment could not be guaranteed. What an indictment of members opposite, when their friends in the union movement write that letter to me - a Liberal Minister. It is opportune that Hon Helen Hodgson should read out that sentence to the Chamber today, because it is illuminating on how the whole system works. The Government gives an undertaking - even the union members who signed that letter will agree with us -

Hon N.D. Griffiths: What are their names?

Hon N.F. MOORE: I will give them to the member. I will give him the letter. In fact, I will frame the letter and give the member a thousand copies for opposition members. The Minister for Employment and Training agreed that she will ensure there is a balance on the board.

Hon Ljiljanna Ravlich: Trust us!

Hon N.F. MOORE: Yes, in the same way as Hon Ljiljanna Ravlich's union colleagues were prepared to trust me. It is a pity the member does not have the same faith as her union colleagues have in what the Government seeks to do.

The amendment will not work for the reasons I outlined. It will not achieve what Hon Bob Thomas intends it to. I suggest he not persist with it, unless he wants to amend it further; however, further amendments might make it even worse. Even the unions reckon it is okay if the Government appoints people on the basis of this Bill. That is why I suggest members stick with the Bill.

The third alternative is to do nothing - delete this clause in the Bill and remain with the existing system. That would be a demonstrably bad decision because the Hitchen report says the board does not work under its current tripartite arrangement. I ask the Chamber to contemplate seriously what I am saying. It makes a lot of sense that we stick with the Bill and do not proceed with the amendment proposed by Hon Bob Thomas.

Hon BOB THOMAS: I was interested to hear Hon Norman Moore suggest that the letter from the employer organisations and the employee organisations somehow or other condoned the way he operated on this issue, and suggested that he would act in an impartial manner. He selectively quoted from the letter sent to him. He is correct in saying that the unions and the employer organisations wrote to him. They did so on 22 September. They said that they did not support two of the recommendations made by Hitchen.

[Questions without notice taken.]

Hon BOB THOMAS: Before questions were taken I was responding to the Leader of the House's comments about a letter sent to him on 22 September 1994. He said that the union and employer signatories to the letter indicated that they had great faith in his judgment in appointing the board and, at the same time, voiced a lack of confidence in the Labor Party's judgment. The Minister went on to say that he felt it was such a good letter that he would have it framed and have thousands of copies made and cause them to be delivered to members of the Labor Party. I suggest that -

Hon N.F. Moore: I do not think I would waste the postage. It was a throwaway line. I will put them on your desk.

Hon BOB THOMAS: I suggest that the Leader save his energy because the letter does not say that. He interpreted -

Hon N.F. Moore: With respect, I read the whole paragraph.

Hon BOB THOMAS: He interpreted the letter in the kindest possible way - and I am being generous to him.

The letter indicated to the Minister that the organisations did not agree with all of the Hitchen recommendations, but that they did support some of them. I referred to that during the second reading debate and pointed out that, likewise, the Labor Party supports some of the recommendations. After listing the Hitchen recommendations supported by the combined union and employer organisations, the letter then went on to point out that two recommendations were not supported and changes were suggested in lieu. The industry organisations felt that they should be involved in the nomination of persons to sit on the board. The combined organisations represent the majority of all sectors of the industry and, as such, are in the best position to nominate board members.

The Minister read the paragraph suggesting that, without the organisations being the nominating agents, there is an ever present risk of appointments being made on a political basis rather than on an industry needs basis. While this might not be a problem with appointments made by the present Government, future Governments, perhaps of a different persuasion, might make appointments that are less than desirable to the employers or to the Minister. They then very politely pointed out that, because he is currently the Minister, he should consider the way in which appointments are made. There might be occasions in future when appointments are made that might not satisfy him. They would have said exactly the same thing if the Labor Party were in government.

I have read out a section of the letter sent to the Minister from unions and employers - industry representatives - but I will not read out the signatories. Those organisations developed a paper entitled "Structuring the BCITF - A UNANIMOUS Industry Position". Section 4, part 3 of that document states -

> Board Composition: Every non government person on the Board is now actively and directly engaged in the Building and Construction Industry and has a knowledge of Industry Training. The proposed Board restructure together with the suggested changes to the quorum can reasonably be expected to substantially remove the fundamental causes of the blockage in the decision making process.

On page 4 is a separate section referring to the board and the change in the scope of the collections. It reads that the membership of the board should be reduced to a more manageable grouping. We accept that. It reads that members have a primary need to be representative of those industry groups which directly pay the levy and those who will be trained utilising the levy and that this can be achieved with the BCITF board made up of the people who are set out below on that page. They include three people who are employer nominated and two union nominated people. That is what the industry is telling the Minister.

Hon N.F. Moore: Of course that is what those people would say, because they are the beneficiaries. That question is fundamental to the conflict of interest problem.

Hon BOB THOMAS: The Leader of the House seems to forget that the Minister supports the separation of the BCITF from the ITC. The industry endorses those parts of the Bill which call for a removal of the common membership of the board of the trust fund and the ITC. I cannot see that this view is inconsistent with that; in fact, I cannot understand why the Leader of the House is saying that this set up would result in the problems that the BCITF had experienced. However, we have already voted on the policy of this Bill. We accepted that there would be no tripartitism on this board.

Two of the members who are appointed to that board must be acceptable to the union movement, so that we have people with specialist skills on the board as well as people who are acceptable to employer organisations and so that when decisions are made the board is in a position to understand both sides of an issue. The Labor Party believes very strongly in the need for training in the building and construction industry. If the Minister had read *The West Australian* of Saturday, 8 November, he would have seen an article headed "Big jobs growth forecast". It reads -

> New investment in WA, mainly in resource projects, could create more than 44,000 new jobs, according to a report by Access Economics.
>
> It said the 69 projects could be worth more than $38 billion but warned the State could soon have problems caused by shortages of skilled labour.
>
> "Western Australia is likely to run into problems with a lack of skilled labour for construction if many projects proceed," it said.
>
> The report said almost 10,300 construction jobs had been created in WA or were about to be created.

Hon HELEN HODGSON: The Leader of the House indicated that the Minister in the other place had made commitments on the type and extent of consultation which would be entered into. I looked at the *Hansard* debate on that. I found no firm commitments. As part of this debate, I have attempted to get some commitment from the Leader of the House which may assist us in deciding whether this clause is necessary. However, due to circumstances beyond my and the Leader of the House's control, in the last couple of days we have not been able to speak on my concerns. I recognise the points being made in response in this debate as fairly serious concerns, but at this stage I have no further commitment from the Leader of the House on the form of consultation that will be entered into in order to deal with this. The debate I have read in *Hansard* does not refer to this Bill and does not go into the extent to which consultation will be entered into by the Minister. Therefore, at this stage I have had nothing to cause me to change my mind.

Hon N.F. MOORE: If it is of any help to the member, I am happy to give the commitment on behalf of the Minister for Employment and Training that she will talk to every organisation that is listed in the Bill. I guess she would say, "These are the sorts of people I have in mind. Do you have anybody else in mind? If you want to put forward names, we will be happy to look at all of them and discuss which individuals may or may not be on the board." She has no problem with that. The whole idea of the Bill's construction is to require absolutely that she will consult with all those groups. They are named individually. The suggestion is not that she consult with industry, employees or employers. The Bill sets out which groups she is required to consult with. That consultation process will be very thorough indeed.

As I said earlier, if we proceed with the present amendment, she need consult with only one group or talk to all of them. If they are acceptable to one group, those two names will go forward. I do not think that is what Hon Bob Thomas had in mind. He is seeking Clayton's tripartitism, as it were. I cannot imagine unions or employer groups saying, "Joe Blow, who has nothing to do with our interests, is acceptable to us." I cannot imagine a union secretary, for example, saying, "Let the position go to somebody I happen to know." Unions would want that position on the board. They have always wanted it. That is why they wrote in their letter that they would like to be represented on the board. That has been the problem.

Hon Ljiljanna Ravlich interjected.

Hon N.F. MOORE: The member has this terrible philosophical problem. Her ideology is so intense that she cannot see the wood for the trees.

Hon Ljiljanna Ravlich interjected.

Hon N.F. MOORE: I am a bit more pragmatic than she.

On the question of the conflict of interests, a further amendment will be moved down the track by Hon Helen Hodgson. It refers to conflict of interest and how we cannot have any among the appointed members. If we go ahead with Hon Bob Thomas' amendment, we will potentially have people from the union movement and employer organisations who could have a very serious conflict of interest in the context of the further proposed amendment. As a matter of interest, five of the six employer bodies named in the Bill have their own group training scheme or skill training centre. Of the three unions, one has its own skill centre and another is sponsoring a group training scheme. Both group training schemes and skill centres are recipients of BCITF funds. This is the absolute guts of the problem: If members agree with Hon Bob Thomas' proposal, they could not possibly agree with Hon Helen Hodgson's future proposal on conflict of interest. We cannot have people who are looking after the interests of unions and employer groups which are recipients of the money, and then have a clause down the track which says, "You cannot have a conflict of interest."

I implore the Chamber to reject this amendment because it will not work in the way the member wants it to work. It will not solve the problems that this Bill is all about trying to solve. If it is of any help to Hon Helen Hodgson, I will give an absolute assurance on behalf of the Minister for Employment and Training that she will properly consult with all the listed organisations and come up with a board which is truly reflective of the various shades of opinion on training.

Finally, this board is about training, not industrial relations. Another of the board's fundamental flaws has been the industrial relations club at its best with people saying, "Let us work together and do deals." That is why I have said in this Chamber on a number of occasions, we want people on the board who are there to look after the interests of training.

The member quoted a newspaper report on the increased number of jobs that will be available. Even with the BCITF in place we have a skills shortage in the construction industry. That is another example that it has not worked. On behalf of the Minister for Employment and Training I assure the Democrats that there will be proper consultation. I suggest members not go along with Hon Bob Thomas' amendment because it will not work and will not achieve what members want to achieve.

Hon LJILJANNA RAVLICH: I listened to the Leader of the House yet again give another undertaking that the Minister for Employment and Training will consult and will do the right thing by the industry. The Leader of the House has never done the right thing by the industry. He has not consulted. When he was the Minister responsible he promised that he would not repeal key training legislation in this State. He has turned his back to me; that is the sort of response that I expect from him. As Minister for Training he repealed major training legislation in this State. The Government is making major changes to this legislation after he promised that none would be made. The Leader of the House expects members on this side of the Chamber to sit here and listen as he gives yet another promise that the Minister will consult. The Leader of the House does not do the right thing and the sooner we accept that the better.

The Leader of the House has said time and again that the BCITF has the role of banker. We might as well ask the ANZ, the Commonwealth or one of other major banks to collect the money from the industry! We can appoint a group of bankers to administer this fund! This is his agenda. I have no idea why the Leader of the House objects to the key stakeholders having an input into who is appointed to the board. He tells us that the Minister will go through an extensive consultation process. That is what this amendment is about. I do not understand why the Leader of the House has such an enormous problem with this amendment, given that he has given a verbal undertaking that he wants consultation. The Leader of the House says that his word is his honour and that it is worth putting a dollar on! This provision requires the Minister to consult with key bodies so the person appointed is acceptable to those bodies, and that is the Minister's stated intention. I do not see an enormous problem with that. I do not see the BCITF as a bank, but as a fund to administer moneys for training in the building and construction industry.

Clause 7 lists the membership of the board. They are the representatives of the building and construction industry. They have an idea of training needs in the industry and they should rightfully be consulted. It should not be a function delegated to the ANZ, the Commonwealth or any other bank, because banks do not know anything about training.

Hon HELEN HODGSON: The Leader of the House stated that he was willing to make a commitment on behalf of the Minister for Employment and Training. When I wrote to that Minister I outlined four specific points and I would like to know whether the Leader of the House is able to agree to those points. Firstly, there should be a selection panel handling the recruitment process for new board members, including assessing, short listing candidates and checking their credentials. Secondly, the selection panel should forward a short list to the Minister to make a final selection. Thirdly, there should be a statement in writing setting out details of the formal process for consultation with peak industry bodies seeking nominations and referrals. Fourthly, when consulting those bodies, information about the position, including the skills and attributes required by the nominee for the position, should be included. Most of those points are taken directly from the Public Sector Management Office document "Getting on Board".

Hon N.F. MOORE: I cannot give a commitment about those four points as I have not consulted the Minister. I suggest the Chamber make a decision on this amendment. The Chamber may accept Hon Bob Thomas' amendment, but it will not achieve what members want it to achieve.

Hon BOB THOMAS: The Leader of the House is wrong; it will achieve what we want and more. The Opposition expects there will be significant job growth in the residential housing and construction sector over the next couple of years. It is estimated that commercial construction will pick up in 1999. We have just seen some preliminary figures indicating that home lending is increasing in Western Australia, defying the national trend to decrease. It is imperative to have a proper plan for training so we can meet those needs and not have the booms and busts of the past, where during a boom we have a shortage of skilled labour and extremely high prices are charged for labour. In order to get a proper plan in place we need a cooperative approach from all members of the industry - unions and employers. We would like to see people who are acceptable to industry and to the union movement on that board so that each group feels it is a partner in this planning process. If the Minister plucks people out of the air to sit on boards it will not work. I contend that the Leader of the House's proposition is wrong and will not work.

During debate on the State Employment and Skills Development Authority legislation I sat on the government

benches and listened to Hon Norman Moore when he was a backbencher say that he could walk out onto the street and pick any worker irrespective of whether he was a union member and put him on the SESDA board and he would represent the interests of workers. That was clearly incorrect.

Hon N.F. Moore: In respect of some people who were put on the board that is what happened! It is a joke.

Hon BOB THOMAS: We accept there were some problems with SESDA. However, I note that most of the principles of that legislation were picked up by the Leader of the House and put into the vocational education and training legislation. I do not want to debate that. The Leader of the House would agree that all those principles are part of the VET legislation; the Minister just wants a different name.

The industry and the union movement indicated some problems with the BCITF. For example, there were problems with the voting because of the way the quorum was structured and any one of the three sectors had a right of veto. That has been changed in this legislation. They indicated that common membership of the trust fund board and of the industry training council was a problem because of conflicts of interest. As the Leader of the House said, the people who were handing out the money were often the people who were receiving the money. The union movement and the industry have agreed to those changes.

We disagree with the Leader of the House's proposition that tripartism was the problem causing all the bottlenecks. The problem with tripartism is in the Leader of the House's mind. I do not accept his argument that tripartism caused these problems. The problems with the BCITF were caused by other matters, not tripartism.

Sitting suspended from 6.00 to 7.30 pm

Hon BOB THOMAS: It is important that these new paragraphs be inserted so that all the key players in the building and construction industry feel they are part of the process, have a proprietary interest in it and make sure the system works. The building and construction industry trust fund did not work properly in the past, but that was because of other factors. The Minister has said on a number of occasions that the tripartite nature of the board caused it to fail. That is not correct. It failed because of the very complicated quorum which virtually gave any one of the sectors a veto. It also failed because there was some conflict of interest due to common membership of the BCITF board and the ITC. This Bill removes both those factors. The two factors causing the holdup in decision making have been removed, and in order to make it work more effectively we must ensure that the key stakeholders in the process feel they are in partnership. The Opposition will insist that two members of the board must be acceptable to the industry groups mentioned in paragraphs (a) to (f), and that two members be acceptable to union groups referred to in paragraphs (g) to (i).

The Minister said that he can see some problems with the system and he postulated that future Ministers might cause problems for the decision making process because they consult only one organisation to ensure the two board members are acceptable to it. He said it might cause some infighting among the other industry or union representatives who may not support those members. The Minister is drawing a long bow and he is looking for problems rather than accepting the need for the key stakeholders to be willing participants and to have an interest in making sure it works well.

Hon LJILJANNA RAVLICH: I support the amendment. I understand there was a meeting between the Minister and the industry organisations on 17 August 1994. I understand the organisations representing industry met with the Minister to outline their response to the Hitchen review. The organisations participating in this extensive consultation process included all the building and construction trades organisations. There was scepticism about the report findings, and the industry as a whole has gone through the report section by section and put together a suitable response that reflects the thoughts of the industry. It must be borne in mind where the BCITF emerged from, and it certainly was not imposed on industry by the Government. It emerged prior to the establishment of the training guarantee because the industry wanted it.

I understand the industry was of the view that the membership of the board should be reduced to a more manageable group. That is exactly what this Bill proposes. It will be a seven member board, and these members must be representative of the industry groups that directly pay the levy and those who will be trained utilising the levy. My concern, and the concern of the people with whom I have consulted, is that the legislation as currently prepared would not necessarily ensure this because it would require the Minister to consult with all those organisations but he would not be under any obligation to nominate people on the board from those organisations. The Opposition is trying to avoid that. The industry also felt a number of other principles should be applied; that is, as much of the total industry as possible should be represented on the board, with the chair being appointed by the Minister; nominations of suitable persons should be made by the organisations named; and persons nominated should have experience, skills and/or knowledge of the industry, financial matters and training.

Hon Helen Hodgson touched on these issues and said that those who have not gone through the appropriate selection process and are not capable of meeting the selection criteria should not be members of the board.

The industry obviously believes that these things are very important. We agree, and that is the reason we support this amendment, which will ensure that the stakeholders, including the Master Builders Association of Western Australia, which has been a part of this from the outset, the Housing Industry Association Ltd, the Construction Contractors Association of Western Australia, the Master Plumbers and Mechanical Services Association of Western Australia, the Master Painters Decorators and Signwriters Association of Western Australia, the Electrical Contractors Association of Western Australia, the Western Australian Builders Labourers, Painters and Plasterers Union of Workers, the Construction, Mining, Energy, Timberyards, Sawmills and Woodworkers Workers Union of Australia, and the Australian Manufacturing Workers Union, are represented on the board.

Clearly there cannot be enough positions on the board for everyone, but all we are asking is that at least two of the members shall be drawn from persons acceptable to one or more of the bodies named in subsection (1)(a), (1)(b), (1)(c), (1)(d), (1)(e) or (1)(f); and at least two of the members shall be drawn from persons acceptable to one or more of the bodies named in subsection (1)(g), (1)(h) or (1)(j).

Hon N.F. Moore: You have probably said it three times.

Hon LJILJANNA RAVLICH: I will continue to say it.

Hon N.F. Moore: I am trying to avoid tedious repetition.

Hon LJILJANNA RAVLICH: I can only hope that it penetrates the Leader of the House's mind and I enlighten him -

Hon N.F. Moore: You will never enlighten me. You live in a time warp of 1950s communism.

Hon LJILJANNA RAVLICH: I can only hope that by saying it often enough, the Leader of the House will finally get the message. We are talking about what the industry wants. I am getting sick and tired of hearing the Leader of the House purport to understand what the industry wants. The reality is that he thinks that if he rubs shoulders with the members of the HIA, for example, he is representing the industry as a whole. I doubt very much whether the Leader of the House has even been on a construction site or spoken to a construction worker.

It is absolutely imperative that the people who will make the decisions about the distribution of the moneys that will be collected by the industry for the industry have a sound understanding of the training requirements of the industry. It would be an absolute travesty of justice if this fund were administered in a purely commercial way. However, given what the Leader of the House has said, I fear that that is what will happen. Given what this clause aims to do, and given that the Leader of the House wants us to believe that he is intent on consulting extensively, I cannot see any problem with the clause as it stands. Why would the Leader of the House not want to ensure that the people who are appointed are acceptable to the industry? That is not a very big ask, because at the end of the day what is the point of having a board that is not acceptable to the industry, unless the Leader of the House wants to make those appointees irrelevant to what the industry is doing?

Frankly, I can conclude only that the Leader of the House wants to split training and the training requirements of the industry and in some way commercialise this operation. After all, the Government has commercialised everything else, so I suppose it is getting to the point where it is looking at some of the smaller agencies and statutory authorities. The real fear is that this is exactly what the Leader of the House is doing.

Amendment put and a division called for. Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the ayes.

The division resulted as follows -

Ayes (14)

Hon Kim Chance	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon J.A. Cowdell	Hon Norm Kelly	Hon Christine Sharp	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths	Hon Mark Nevill	Hon Tom Stephens	
Hon John Halden	Hon Ljiljanna Ravlich	Hon Ken Travers	

Noes (13)

Hon E.J. Charlton	Hon Barry House	Hon M.D. Nixon	Hon W.N. Stretch
Hon M.J. Criddle	Hon Murray Montgomery	Hon B.M. Scott	Hon Derrick Tomlinson
Hon Max Evans	Hon N.F. Moore	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan			

Pairs

Hon Tom Helm	Hon B.K. Donaldson
Hon E.R.J. Dermer	Hon Peter Foss
Hon Cheryl Davenport	Hon Simon O'Brien

Amendment thus passed.

Further consideration of the clause postponed, on motion by Hon Helen Hodgson.

[Continued on page 7455.]

Clauses 8 to 10 put and passed.

Clause 11: Sections 25A, 25B and 25C inserted -

Hon N.F. MOORE: I move -

Page 9, line 9 - To insert after the word "to" and before the word "the" the following -

(a)

Page 9, line 10 - To insert after the word "arrangements" the following -

; or

(b) the carrying out of construction work for charitable purposes,

The amendment seeks to add to new clause 25A the capacity for an exemption of a project owner engaged in construction work for charitable purposes. In other words, an exemption will be made if a person is building a charity home such as a Telethon home. In that case, the levy will not be charged.

Hon BOB THOMAS: This issue was raised by the Opposition in the other place. We thank the Minister in the other place for agreeing to examine the clause and to provide an amendment to exempt charitable homes. We support the amendment.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 12 to 14 put and passed.

Clause 15: Schedule 1 amended -

Hon HELEN HODGSON: I move -

Page 13, lines 1 to 8 - To delete the lines and substitute the following -

Duration of Act

35. (1) Subject to this section, this Act expires 5 years from the day on which it comes into operation.

(2) Not earlier than 12 months before the expiry provided for in subsection (1), the Governor, by notice published in the *Gazette*, may extend the operation of this Act for a further period of not more than 5 years commencing on the day on which this Act would otherwise have expired and may, in like manner, continue the operation of this Act for 1 or more periods being not more than 5 years in each case.

(3) Any order made under subsection (2) is to be laid before each House of Parliament not later than 7 sitting days of each House from the day on which it is made and has no effect unless affirmed by resolution of each House passed in the same session.

I have difficulty with the way the sunset clause in this Bill is to be implemented. Originally the proposal was for a defined date, and amendments were made in the other place which meant that the date could be extended by proclamation. Both arrangements would leave the board in a lame duck situation. The board would know it has a defined date and a set time to come to terms with changes to make it more efficient. I am concerned that that situation will limit the effectiveness of the changes. My amendment seeks to insert a different form of sunset clause based on a recommendation in the thirty-sixth report of the Standing Committee on Government Agencies that all agencies have a five year sunset provision, and that that be a rolling provision so that positive action would be necessary to ensure the board is continued; however, it is ongoing as long as an agency is operating efficiently and there are no problems.

A rolling provision is probably the best way to ensure the board has enough time to deal with certain matters. It will have an opportunity to put in place changes without the sword of Damocles hanging over its head, which will mean it will exist for a short time, so why bother undertaking too much reform? The thirty-sixth report of that committee has not been discussed in its entirety in this place. On a number of occasions issues have been raised and the answer

has been that when we consider that report we will consider that particular issue. The thirty-sixth report of the Government Agencies Committee was tabled in 1994, and the time has come for us to insert this provision to ensure that the intention of the report is followed through and provisions are placed in legislation as it passes through this Chamber.

Therefore, this clause will be more effective for a number of reasons. It will aid the efficiency of the board; it is a more certain provision than the one relying on a proclamation date which would need to be determined at a particular time. It will achieve the intention of the Bill; it is not in conflict with the intention, because a sunset clause was the original intention. I commend the amendment to the Chamber.

Hon BOB THOMAS: The Labor Party supports the amendment, for a number of reasons. We have just passed the clause requiring a review to be dealt with by the Parliament within the last year of the operation of the Act. We are very concerned that sufficient time be allowed for the reconstituted BCITF to be seen to be working effectively. When in the other place, the Bill contained a sunset clause relating to 1999, but after negotiation with the Minister that was extended to the year 2000.

That is not long enough. The Minister for Employment and Training expressed her desire to have the newly constituted board in place next year, if possible. That will give it only two years of operation - that is, 1998 and 1999 - before a review would be conducted under clause 14, which the Chamber passed a few minutes ago. Two years is not sufficient time for the board to operate in all trading conditions. As I indicated earlier, the activity in the building industry, both residential and commercial, is reasonably flat at the moment. We can expect with the current indicators that activity will increase in both sectors over the next couple of years. It will be important for the BCITF to be seen to operate in a variety of conditions and levels of building activity before the review is conducted. Therefore, the sunset clause should not come into play until 2002, which will give the fund four years of operation from 1998 to 2001 inclusive. The review will then be dealt with in both Houses of Parliament late in 2002.

The other advantage of holding the review in 2002, as opposed to 2000, is that it will take place after the next election.

Hon N.F. Moore: I am pleased that you are prepared to say that; most people would not say it!

Hon BOB THOMAS: The Minister should appreciate that I am very candid.

Hon N.F. Moore: You are, and you have done a very good job on this Bill.

Hon BOB THOMAS: We do not believe that the review should be dealt with in the lead-up to an election in a hothouse environment with great pressures applied to legislation. The Bill resulting from the review could not be properly dealt with in such a climate.

Hon Helen Hodgson has moved a very good amendment, and the Labor Party agrees that the sunset clause should apply in 2002. In that case, the review will take place after the election and it can be considered in a relatively relaxed atmosphere, rather than in a hothouse and be involved with a legislative log jam prior to Parliament being prorogued before the election. We support the amendment. However, I will move my amendment if this one is defeated.

Hon LJILJANNA RAVLICH: I support the amendment as a result of my strong involvement with the building and construction industry training fund and my involvement with SESDA, which I previously placed on the record. History indicates that the BCITF has not been given much of a go. The Bill states that the Act will expire in two years, which is another indication that the Government is not serious about giving the fund a fair go. It is setting it up for failure, and this legislation deserves better.

Members may be aware that the fund came into operation in the latter part of 1990, and a change in Government occurred in 1993. In 1994 a review was conducted by Len Hitchen into the BCITF and its operation. Clearly, this instrumentality has been on uncertain ground. Some time after 1994, a split of the BCITF and the Building and Construction Industry Training Council took place which meant re-adjustment and restructuring. Frankly, legislation must receive a commitment to ensure that it has an opportunity to work. The efficient operation of the BCITF has faced brick walls, which is a concern.

Hon Helen Hodgson's amendment will enable the fund to demonstrate its worth. In relation to Hon Bob Thomas' comments, the industry can expect some recovery. I spoke to a real estate friend last night who said, although not in relation to this Bill, that some movement was evident in the housing market, which seems to be fuelled by the fact that the share market has not done particularly well and people are investing in bricks and mortar. That is good for the building industry.

I am aware of its benefit as skilled labour at a reasonable price was available to build my house when I needed it.

This is a very good amendment which will give the BCITF the opportunity to demonstrate that it is an efficient and workable body and that it operates in the best interests of the building and construction industry in this State.

Hon N.F. MOORE: I reiterate that the Government does not support the amendment. In good faith, we have introduced a review clause; that is, a proper sunset clause. The last review of the building and construction industry training fund was carried out in 1994, which, for the benefit of Hon Ljiljanna Ravlich, was a statutory obligation.

The Bill which established the fund contained a review clause; therefore, this review did not result from some ulterior motive on the part of the Government, but was necessary through Statute. The Hitchen report was released, and we met brick walls and procrastination wherever we turned in that regard. I suggest to Hon Helen Hodgson that her amendment will not achieve her intention, and that she will be sorry she suggested it.

Amendment (words to be deleted) put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the ayes.

Division resulted as follows -

Ayes (14)

Hon Kim Chance	Hon John Halden	Hon J.A. Scott	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon E.R.J. Dermer	Hon Norm Kelly	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths	Hon Ljiljanna Ravlich		

Noes (13)

Hon E.J. Charlton	Hon Barry House	Hon B.M. Scott	Hon Derrick Tomlinson
Hon M.J. Criddle	Hon Murray Montgomery	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon N.F. Moore		
Hon Ray Halligan	Hon M.D. Nixon	Hon W.N. Stretch	

Pairs

Hon Tom Helm	Hon B.K. Donaldson
Hon Mark Nevill	Hon Peter Foss
Hon Cheryl Davenport	Hon Simon O'Brien

Amendment thus passed.

Amendment (words to be inserted) put and a division called for. Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the ayes.

Ayes (14)

Hon Kim Chance	Hon John Halden	Hon J.A. Scott	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon E.R.J. Dermer	Hon Norm Kelly	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
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Hon Max Evans	Hon N.F. Moore	Hon W.N. Stretch	
Hon Ray Halligan	Hon M.D. Nixon		

Pairs

Hon Tom Helm	Hon B.K. Donaldson
Hon Mark Nevill	Hon Peter Foss
Hon Cheryl Davenport	Hon Simon O'Brien

Amendment thus passed.

Clause, as amended, put and passed.

Clauses 16 to 22 put and passed.

New clause -

Hon HELEN HODGSON: I move -

To insert the following new clause -

10A. The Minister shall -

(a) establish and make available to applicants selection criteria for positions on the Board; and

(b) advertise in two major newspapers circulating throughout the State that a position is available and applicants are invited to apply.

This amendment returns us to the notion of a fair and open process for making appointments to the board. I note members have already agreed that the board will comprise people who are approved of by the bodies listed in the Bill. However, I seek to make it clear by this clause what the selection criteria for those people should be. The report "Getting on Board" states that in the appointment procedure a chief executive officer or a Minister should identify the membership requirements and look at the skills and attributes that are necessary for effective board performance. These skills and attributes include accountability, strategic thinking, monitoring, policy development, decision making, networking, advising and teamwork. A proforma attachment to the report lists in detail the board members' skills and attributes that people should look for. It is well and good to say that the Minister should be aware of these attributes, but it is important also that the applicants are aware that these attributes are considered necessary, otherwise people will be nominated or will nominate themselves and will find that they do not posses the necessary skills and attributes that are important to make the board work efficiently.

The second paragraph of this new clause will require that an advertisement be placed in two major newspapers that are circulated throughout the State. This provision is to ensure we draw from the widest pool of applicants possible. It is well and good if the bodies nominate people, but the advertisement means also that others are aware of what is going on and are given the opportunity to nominate either themselves or another party for a position on the board. Often that will provide the balance, skills and attributes that are required which may not otherwise have been available.

That matter is covered in the excellent report "Getting on Board", which states -

> There is a trend towards greater use of newspaper advertising of board vacancies, particularly for new Government boards and committees.

As an example of best practice, it cites the following instance -

> The Minister for Regional Development placed an advertisement in metropolitan and regional papers calling for nominations for nine Regional Development Commissions. Interested people were invited to complete a nomination form and attach a curriculum vitae.

The report points out also that advertising draws a much greater response than other recruitment methods.

If we are genuinely looking for the best balance of skills and attributes that are necessary to make this board work efficiently - that is, industry knowledge of financial procedures, accountability and all the other items that are necessary - this proposed clause will improve the ability of the Minister to select the right person. In that sense, it will improve the ability of the board to function.

Hon N.F. MOORE: I think the amended clause proposed by Hon Helen Hodgson is a slight improvement on the previous one. It is interesting that she has deleted the need to include details of grounds for disqualification on the basis of conflict of interest. Given that those words have been deleted, does it mean that it is not important any more? We have been told by the member that we must make sure criteria are in place and that the Minister cannot just go about making decisions; that we cannot allow Ministers to appoint people to the board because somehow or other they have a problem with making decisions. Therefore, these criteria must be made public in two newspapers circulating throughout Western Australia. We were also told that the criteria should include things like grounds for disqualification on the basis of conflict of interest; however, the member does not think we must do that now.

I find it strange that she is suggesting that. I argued against the proposition put forward by Hon Bob Thomas a little while ago about the membership of the board. I said that by agreeing to the clause he proposed, we would create an environment where there could be a very serious conflict of interest by having those organisations give their approval

to the appointment of two members. I argued that on the basis that this board makes decisions about spending money, organisations which consume the money can be represented on this board. I read out that of the employer bodies - I am not talking just about employee bodies - named in the Bill, five out of six have their own group training schemes or skill centres. Of the unions, one out of three has a skill centre and the other sponsors group training programs. They are very big consumers of the money that the Building and Construction Industry Training Fund spends.

Under the amendment put forward by Hon Bob Thomas, to which the Chamber agreed, in appointing this board it will be necessary for the Minister to obtain the approval of three unions before the two union representatives can be appointed. Members opposite cannot tell me that those people will be completely dissociated from the union movement. They may very well include the secretary of the union in the same way as the executive director of an employer group gets appointed to the board. They are the only people who are acceptable in accordance with the amendment put forward by Hon Bob Thomas. Therefore, there is a serious possibility of a conflict of interest. Hon Helen Hodgson has been telling us all about accountability since she got here, yet now she will put a line through the conflict of interest provision. A moment ago we put in place an amendment which will create a very serious conflict of interest problem.

We will not support this clause. I do not support the thrust of the process that the Opposition and the Australian Democrats have been seeking to put in place with this board. I will just say this: When we became the Government we had the BCITF. It was set up under an Act of Parliament which required a review to be carried out after five years. The review was done and it made some very serious recommendations. The Government has turned those recommendations into a Bill. It has come to this Parliament and has been severely amended. It has been amended in a way which is quite contrary to the intent of the Hitchen inquiry and also to the Government's intention for what this Bill should contain. We now have this Chamber making amendments all over the place, some of which are very poorly thought out.

Hon Ljiljanna Ravlich: That is a nonsense.

Hon N.F. MOORE: The member should just wait and see.

Hon John Halden: You have not substantiated that.

Hon N.F. MOORE: The situation is that we now have a Bill which has been changed in a way which I do not believe will allow this board to work. It will take forever to get a board appointed if the Minister goes about consulting everybody and then tries to do the right thing by getting some agreement across the board about who will be appointed to it.

Under this process, who will decide what the selection criteria are? I hope it is okay for the Minister to decide that. If that is not okay, I do not know who will decide. Then the advertisements must appear in two major newspapers. What are major newspapers? There is no definition of a major newspaper. I argued this before: It is ludicrous to say that we must advertise in certain sorts of newspapers when there is no definition of what a major newspaper is.

Hon John Halden: How many newspapers are distributed Western Australia-wide? It says that it will be advertised in two major newspapers. Surely within the intellect of government, that can be worked out!

Hon N.D. Griffiths: Not this Government.

Hon John Halden: Under your argument, you are pontificating to the point of boredom.

Hon N.F. MOORE: I do not care whether *The West Australian*, the *Sunday Times*, the *Australian* or the *Australian Financial Review* are considered to be major newspapers. The fact of the matter is that somebody who did not get appointed to the board might care and might decide to take some action on the basis that it was not advertised in that person's definition of a major newspaper. It is as simple as that. If those opposite want to create in legislation the potential for litigation, they should continue to do stupid things like this. Why do we not just put the advertisement in *The West Australian* and the *Sunday Times*?

The Government does not support this amendment. It finds extraordinary the amendments Hon Helen Hodgson has put into the original proposition. She has taken out the reference to conflict of interest. I think she knows very well that to appoint the people under the amendment moved by Hon Bob Thomas, which has already been agreed to, there will be a conflict of interest and we will be back where we started with this board seven years ago, in 1990. The various industry groups - employers and employees - will be sitting down making cosy little decisions about where the money comes from and where it goes, and being involved in spending it. That was what was wrong in the first place. Those opposite want to put that system in place again. It will be on their heads if that happens.

Hon N.D. GRIFFITHS: The Leader of the House made a number of observations. First, he said that it would take forever to appoint this board. That says something about the administrative processes of this Government - it takes

forever to make a decision. When it does, a Minister from the National Party takes one point of view while a Minister from the Liberal Party takes another and no decision comes to fruition; there is no action. This is a Government of media release -

Point of Order

Hon N.F. MOORE: I fail to see what this has to do with the clause before us.

The CHAIRMAN: I am sure the member is about to discuss the specifics of the proposed new clause, moved by Hon Helen Hodgson.

Debate Resumed

Hon N.D. GRIFFITHS: I certainly am addressing the proposed new clause moved by Hon Helen Hodgson. In doing so, I am addressing those very relevant comments made by the Leader of the House when he sought, inadequately, to rebut the profound arguments put by Hon Helen Hodgson. The Leader of the House said that this proposed clause referred to resource management. Of course we know that with the Government there are fewer well paid jobs and there is a lot of mismanagement. Then the Leader of the House had the gall, if I may say so, to make some rather scathing remarks about employers and employees getting together.

There is a bit of resentment there. The Australian Labor Party won five federal elections on the trot. I happen to think that James Scullin was a great Prime Minister and it is relevant to this clause. Hon John Winston Howard is likely to be the first Prime Minister, since Jimmy Scullin, to be a oncer in that office.

Point of Order

Hon N.F. MOORE: I fail to see what this has to do with the clause before the Chair and I ask you, Mr Chairman, to ask the member to speak to the clause in the Bill.

The CHAIRMAN: Thank you for the point of order. I am sure the member will relate his remarks to the clause.

Debate Resumed

Hon N.D. GRIFFITHS: I thank you, Mr Chairman, for your observation and the Leader of the House for his tolerance! When Hon Helen Hodgson put in the Notice Paper a form of words some weeks ago she carried out a practice which many members have carried out from time to time. It is a very proper and honourable practice. It is to say, "Think about it; this is what in fact should took place." Members on this side of the Chamber do not have the infinite resources of government misspent by those opposite so regularly. They cannot draw on resources to pick up words at will. They must sit down and think about concepts and put concepts on paper as has Hon Helen Hodgson so eloquently and honestly. She has brought before this Chamber a form of words, and those words are in a more workable form and invite the Liberal Party and the National Party to get together with the Australian Labor Party, the Greens WA and the Democrats so that our State can have some hope and perform -

Hon N.F. Moore: It is going very well indeed.

The CHAIRMAN: Order! Hon Nick Griffiths should speak to the Chair.

Hon N.D. GRIFFITHS: I will acknowledge your presence, Mr Chairman. If the Leader of the House interjected with relevance I would be happy to respond to him. Hon Helen Hodgson has sought to provide to this Chamber words that meet the concerns all of us have about accountability. Perhaps she has backed away too much. If the Leader of the House is so vehemently opposed to her form of words she may want to change them again. I know she is a reasonable person and the Labor Party is happy to support her in these great acts of reasonableness of which we know she is capable. We do not want members opposite to be in any doubt that we support the amendment moved by Hon Helen Hodgson.

Hon HELEN HODGSON: The Democrats recognise that conflict of interest is a major problem in these matters. We also appreciate that as soon as we try to get people of experience to participate on boards we are inviting conflicts of interest. That occurs not only where there is approval, as we said must happen in this case, but also whenever anyone with experience is invited onto a board. I note that the current Public Sector Office guidelines on conflict of interest do not apply so much to nomination to a board but to voting on a matter. That means people can still be on a board and providing experience, knowledge and attributes as part of the process, as long as they do not vote in such a way that that conflict of interest results in material benefit to themselves.

It could be said that I listened to the arguments so eloquently made by the Leader of the House before the dinner break about how conflict of interest was a necessary consequence of the amendment we passed earlier. The experience of and participation by people who must work within the system are equally important. As long as the

conflict of interest guidelines are applied at the time of voting the transparency and accountability that we seek in all these matters will exist.

New clause put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I cast my vote with the ayes.

Division resulted as follows -

Ayes (14)

Hon Kim Chance	Hon Helen Hodgson	Hon Tom Stephens
Hon J.A. Cowdell	Hon Norm Kelly	Hon Ken Travers
Hon E.R.J. Dermer	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon N.D. Griffiths	Hon J.A. Scott	Hon Bob Thomas *(Teller)*
Hon John Halden	Hon Christine Sharp	

Noes (13)

Hon E.J. Charlton	Hon Barry House	Hon Greg Smith
Hon M.J. Criddle	Hon Murray Montgomery	Hon Derrick Tomlinson
Hon Max Evans	Hon N.F. Moore	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon M.D. Nixon	
Hon Ray Halligan	Hon B.M. Scott	

Pairs

Hon Tom Helm	Hon B.K. Donaldson
Hon Mark Nevill	Hon Simon O'Brien
Hon Cheryl Davenport	Hon W.N. Stretch

New clause thus passed.

Postponed clause 7: Section 10 repealed and a section substituted; members of Board cease to hold office -

Hon HELEN HODGSON: I move -

Page 6, after line 26 - To insert the following new subsection -

(4) The Ministerial appointments to the Board must be made in accordance with section 10A.

The purpose of proposed subsection (4) is to give effect to the amendment we have agreed to.

Amendment put and passed.

Postponed clause, as amended, put and passed.

Title put and passed.

Bill reported, with amendments.

Leave granted to proceed through the remaining stages of the Bill.

Bill passed through remaining stages without debate and returned to the Assembly with amendments.

COMMERCIAL ARBITRATION AMENDMENT BILL

Second Reading

Resumed from 17 September.

HON N.D. GRIFFITHS (East Metropolitan) [8.43 pm]: I have been waiting for some time to say that the Australian Labor Party supports this Bill, because it is well overdue. Today is 11 November 1997. On 13 November last year the House rose and on the following day the Premier said that he had completed the legislative program of the Government. I will not say that he knowingly said something that was wrong, but he was wrong because this should really be the Commercial Arbitration Amendment Bill 1996, if not the Commercial Arbitration Amendment Bill 1995. In 1996 a Bill in the same terms as this Bill was sent around the relevant marketplace, although not to members of this House, for comment. The Premier held an early election and told everybody in the State that the business of

the Government had been completed, but surely he must have forgotten about this Bill. He got it wrong not for the first time and, I regret to say for the welfare of Western Australians, not for the last time.

The Bill is most welcome and long overdue. Commercial arbitration is important to the operation of commerce, the creation of wealth and the wellbeing of all Western Australians and Australians. Australia is essentially one economic unit. That is what Federation is all about. Federation is about the creation of what in old terms was known as a customs unit. This Bill, therefore, is part and parcel of the building process of Australia becoming an efficient, constructive, economic unit.

The fact that we have, for the most part, uniform commercial arbitration is testimony to the good work of the Labor Governments of the 1980s and early 1990s, particularly the work of the Hawke-Keating Labor Governments. One has only to recall the state of play of the early to mid-1980s. At that time the Standing Committee of Attorneys General adopted a uniform commercial arbitration Bill. In Western Australia that gave way to the Act that now governs arbitration; namely, the Commercial Arbitration Act 1985. That Act deals with those matters which are obvious to the mechanics of commercial arbitration, including the appointment of arbitrators and umpires; how proceedings are to be conducted; awards and costs; powers of the Supreme Court with respect to it; provisions with respect to authority, liability and what happens when parties die; the power of the court to stay proceedings; something that is much beloved of lawyers, the effect of the Scott v Avery clauses; the important matters when we are dealing with the fundamental economic wellbeing of our State and country, the recognition of foreign awards and agreements; and matters consequent upon that.

The Act was passed, the other Australians States proceeded along the same lines and not long afterwards in 1986 a working group was established by the Hawke Labor Government to examine the operation of commercial arbitration laws relevant to a United Nations model. The Standing Committee on Attorneys General reviewed that aspect and made a number of recommendations; namely, matters to do with the consolidation of arbitral proceedings, the limitation to the right of legal representation, the holding of compulsory conferences and the possible inconsistency between part 7 of the uniform legislation and the Commonwealth Arbitration Foreign Awards and Agreements Act 1974. As a result, the Standing Committee of Attorneys General agreed that certain amendments be made. The other States have made those amendments and Western Australia is still waiting, but that will be rectified when the Legislative Assembly finally passes this Bill. Given how things operate in this House, I only hope that we proceed without undue delay.

The Bill essentially deals with those recommendations. Regrettably it has been delayed long enough. It is not a controversial piece of legislation; it has support across the Chamber. Some people may argue about matters of detail. I do not propose to, because I believe it is important that commerce and the creation of wealth should operate uniformly across Australia. Of course, the occasional marginal matter may result in that uniformity needing to be changed.

The Australian Labor Party regrets that we are dealing with this Bill late in the session. We trust it will be passed in 1997 - it should have been passed in 1996. The Premier could have had his election early this year, as is the custom. Instead, he forgot about this Bill and we are dealing with it today. The Minister handling the Bill can be assured that the Australian Labor Party wishes the measure godspeed.

HON HELEN HODGSON (North Metropolitan) [8.51 pm]: The Australian Democrats also support the principles outlined in the Bill. The purpose of the Bill is to bring the current Act into line with legislation in place in other States. That is in accord with the policy that these matters be resolved in as uniform a manner as possible across state boundaries. That should result in across the board commercial certainty and should enable dealings between commercial enterprises in different States to proceed far more smoothly. I echo the comments of Hon Nick Griffiths about the regrettable delays in progressing the Bill to a point at which we can make a decision.

The amendments seek to streamline the framework for arbitration and thus reduce delays in the justice system. The Australian Democrats support that principle wholeheartedly, because access to justice is an extremely important issue at the moment. The easier and cheaper it is to access forms of arbitration and justice, the easier it will be for people to obtain due process and to see justice done. The use of arbitration has the added benefit of ensuring confidentiality and privacy of proceedings and it is flexible enough to allow the needs of the parties to be met. The Bill achieves those goals. It also extends the ability of parties to be represented in proceedings through arbitration rather than in the courts. However, at the same time, if one party has legal representation then the balance is maintained by also allowing the other party to have legal representation. It allows representation where that fact has been agreed upon. It also establishes a cost threshold in that, if the amount involved is over $20 000, the parties will be entitled to representation. In addition, one is not required to be represented by a legal practitioner; another party might be equally well qualified to represent the particular point. These changes should expedite proceedings and ensure that both parties have equal access to justice.

The Bill also improves procedures for consolidation, allowing all issues between parties to be resolved in one hearing instead of being heard separately as is currently the case. Obviously this has advantages in terms of time management and cost.

It is encouraging to see the recognition of alternative dispute resolution. However, I preferred the approach recently taken in respect of the Family Court Bill, where it became known as the "primary dispute resolution process". Rather than being an alternative, it was seen as the first step. It is very important that it be seen as a genuine alternative.

The Bill provides that one can now appeal only on the basis of an error of law rather than on a matter of fact. Members must think carefully about whether that is good or bad. I worked in a jurisdiction in which that is the norm. In the tax arena, in one type of appeal one pleads on a matter of fact and appeals can be lodged beyond that only if the appeal relates to a matter of law. I am well aware of the shades of grey as to when fact becomes law and when the interpretation of those facts becomes a legal decision in itself. On the whole, that system works well in these sorts of matters. If it is purely a factual issue that must be decided - whether a contract has been breached - that should be the end of the matter, as long as there is a process for appeal when the question relates to an error of law.

The Australian Democrats support this Bill. We are well aware of the serious backlog and delays in the court system. It is hoped that this measure will help to reduce those delays and that money will be saved for taxpayers. We also hope that it will address the problems experienced at the moment in the Family Court and areas that seem to be underfunded. By keeping these commercial matters out of the courts to some extent we can ensure that the courts' time is spent on other matters. I commend the Bill to the House.

HON J.A. SCOTT (South Metropolitan) [8.58 pm]: The Greens WA support this Bill. I sometimes have concerns about the processes of uniform legislation in that Parliaments are put in a position where they can either reject or accept a Bill in its entirety without having played a part in the development process.

Hon Peter Foss: When it is decided by the United Nations it is even harder.

Hon J.A. SCOTT: Perhaps that is the case. It does not necessarily mean we end up with a bad Bill. Consultation with States should take place at an early stage when these Bills are introduced, and that consultation should go beyond Attorneys General. If that consultation were to take place, I would feel more comfortable with this type of legislation. It is certainly a good principle to have uniform legislation, but the process could do with a revamp. For the most part, we are moving forward with this legislation.

Perhaps parties should be required to attempt arbitration first. The arbitration process would also be available to the courts at a later stage. That might result in fewer cases going to the court. There will be instances in which large and powerful organisations might choose to use the courts as a device to impoverish their opposition to the point where they must cave in.

I know one cannot guard against every possibility when making law. By having the case go to arbitration before parties are allowed into court, information from the arbitration process being before the court would give the smaller players a better chance. Given my reservations with this type of uniform legislation, I support the Bill as far as it goes.

HON PETER FOSS (East Metropolitan - Attorney General) [9.01 pm]: I thank members opposite for their support of the Bill.

Strangely enough, Hon Jim Scott was talking on the same topic as Hon Nick Griffiths when we were talking about Scott v Avery clauses, which have been banned. These made it impossible for a person to bring an action at law until they had been to arbitration. It was seen as having the reverse effect of that to which Hon Jim Scott referred. The essence of arbitration is agreement. Alternative methods of mediation are employed in the courts.

One of the things I referred to the WA Law Commission is a method which exists currently in Ontario under which all cases at the close of pleadings are compulsorily referred to mediation for a period of three hours. Major parties must turn up and try to mediate, like it or not. It has had a significant success rate - some 86 per cent in the pilot program. Success means either the matter is settled or the pleadings issues are narrowed.

One of our major problems is that the issues are not narrowed by the pleadings process. By the time we get to the court, we have spent far too much time on side issues. The Ontario method is potentially very good, and the experience is being expanded to every case. Parties will have to go to mediation. Each pays $150. The external mediators all agree that they will do the three hours for $300. They can earn $600 a day, which is not bad for the type of people who wish to do that mediation.

It remains for the Western Australian Law Reform Commission to give advice on that. The matters Hon Jim Scott raised are interesting and have been engaging a lot of people involved in the administration of law around the world.

I am sure we will all wait to hear what the Law Reform Commission has to say on the matters the member raised. I thank all members present for their support.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon N.D. GRIFFITHS: There are in effect three amendments on the Supplementary Notice Paper, but basically there are two amendments. One is an amendment of Hon Helen Hodgson's which, if it were carried by section 20 of the Interpretation Act, would have the Bill come into operation 28 days after it receives royal assent. Under my name are two amendments which give the alternative of it coming into operation when it receives the royal assent. I am fairly relaxed as to which of those two alternatives operate. I wish to hear from the Attorney and Hon Helen Hodgson as to what they prefer and why. The Australian Labor Party, wishing to facilitate the welfare of the Western Australian people, will accommodate whoever is the most reasonable.

Hon PETER FOSS: I accept Hon Helen Hodgson's amendment. First, I should explain why we had the Bill written as it was. There did not appear to be any good reason, as far as I can see, for there being a proclamation. The reason it is there is that it is a model Bill. The model Bill provided the proclamation. As we are doing this Bill last, it is probably fair to say that clause 2 is not really justified in the circumstances. However, I would prefer Hon Helen Hodgson's amendment.

Hon N.D. Griffiths: You want extra time?

Hon PETER FOSS: No, one should always allow 28 days where a Bill has some effect on the actions of third parties. I know of an example relating to the Commercial Arbitration Act as it is currently.

Hon N.D. Griffiths: Your words have been very convincing so far. Do not let me change my mind.

Hon PETER FOSS: I was involved with one of the first arbitration cases after the Act came into effect. An eastern states solicitor had come over to appear in the case. We suddenly realised that under the Commercial Arbitration Act as it is currently, eastern states solicitors are not allowed to appear.

Hon N.D. Griffiths: Did you take the point?

Hon PETER FOSS: The arbitrator took the point and raised it. Of course, the parties had come over at enormous expense and suddenly found themselves without any legal representation. The case obviously had to be adjourned and they paid the costs. I recall a case - I do not think it was this one - where I spent most of the day ringing Government House to find out whether the Governor had signed the Bill because whether the Bill had been assented to would affect our case that day. To give an example, if we were passing this amendment and one were in the same case in which I was involved when the point first came up, and the day of assent was the day the case was beginning, one would be at the arbitrators ringing Government House and asking, "Has the Governor signed the Bill yet?" As soon as the Governor signs a Bill the assent dates back to midnight. Of course one can then observe the law. Therefore, whenever a third party action is dependent upon it, we should have that 28 days. I cannot remember the Bill about which I had to keep ringing Government House but it had a vital effect on what we were doing in court that day. We needed to know whether it had been signed.

If we have the assent plus 28 days we will not have the same sort of problem. Royal assent will not affect third parties. I have made a note to follow this up: There should be a rule. It is a rule of thumb at the moment. We should have a clearly stated rule in each case. For example, if we have a commencement clause the clause notes should state the reason for it. These clause notes do not do that. We should have a clearly stated policy on when we have royal assent, no commencement date, the proclamation and the day or days. Each of those circumstances needs to be justified and we need a clear policy on that. I can probably table that in this Parliament and we can refer to that and ensure the matter is covered in the clause notes.

Hon HELEN HODGSON: I am aware that we are allowed to speak to anything on the short title, and we have been debating the amendment to clause 2 rather than the short title. I find that unusual given that most of the matters I intended to raise have been raised by the two other speakers. We are always concerned there should be good reason for proclamation clauses. In this case there does not appear to be a good reason, which is why I placed the amendment to delete clause 2 on the Notice Paper. I am encouraged that the Attorney General will consider this

matter on an ongoing basis, because it has come up in a number of Bills that we have debated so far this session. I am pleased to hear the comments from both sides of the Chamber supporting my amendment.

Hon N.D. GRIFFITHS: It is appropriate to canvass amendments and the general nature of the Bill during debate on the short title. I want this matter resolved quickly on the basis the Attorney General has agreed to the amendment proposed by Hon Helen Hodgson which members in the Australian Labor Party will be accommodating. One reason her amendment is compelling is that I would hate to have someone in the same predicament as Hon Peter Foss' client of some years ago having to pay for expensive phone calls to Government House.

Clause put and passed.

Clause 2 put and negatived.

Clauses 3 to 23 put and passed.

Title put and passed.

Bill reported, with an amendment.

Leave granted to proceed through the remaining stages of the Bill.

Bill passed through remaining stages without debate and transmitted to the Assembly.

EQUAL OPPORTUNITY AMENDMENT BILL (No 3)

Second Reading

Resumed from 17 September.

HON N.D. GRIFFITHS (East Metropolitan) [9.15 pm]: I am well aware that I am standing in the Legislative Council and, given the performance across parties on the last Bill and what we are about to do, we will give definition to the word "legislative" in the phrase Legislative Council. We are dealing with the Equal Opportunity Amendment Bill (No 3), which is the Government's amendment Bill to the Equal Opportunity Act. I note that in the schedule of Bills that every party in this Parliament is having a bite at amending the Equality Opportunity Act. The Government, the Australian Labor Party, the Greens (WA) and the Australian Democrats each have a matter on the Notice Paper in this House to do with the Equal Opportunity Act.

Hon J.A. Cowdell: Some are more equal than others though.

Hon N.D. GRIFFITHS: Some have more opportunity. Every party is seeking an opportunity to deal with the Equality Opportunity Act. However, as Hon John Cowdell has pointed out, in terms of bites of the cherry some are more equal than others. As a matter of principle I have no difficulty with that because Governments have a primary duty to bring legislation into Parliament and they should have the first say in how matters are conducted. As we know, the Government has control of the Notice Paper and as a general rule that is appropriate.

The Government's amendment Bill to the Equal Opportunity Act relates to age discrimination. The Bill has the support of the Australian Labor Party in this House and we wish to see it passed without any delay. The Bill involves a number of considerations, some of which are modest housekeeping. For example, the removal of a sunset clause which permitted age discrimination for two years following the commencement of the Act. Time has passed and the words have been deleted. It is appropriate that the wording of Acts of Parliament be tidied up. I note that section 66ZN(2) provides that nothing in the Act renders it unlawful for a person to discriminate in accordance with an Act against a person who holds certain offices. They include a judge within the meaning of the Judges' Retirement Act, a master within the meaning of the Supreme Court Act, a District Court judge, a judge of the Family Court, a judge or magistrate in the Children's Court, and a stipendiary magistrate on the ground of that person's age and requiring that person to retire.

The Bill proposes to increase that category to include commissioner within the Industrial Relations Act, a judge within the meaning of the Liquor Licensing Act, the Solicitor General or an acting Solicitor General within the meaning of the relevant Act.

Provisions relating to the superannuation industry are brought up to date as a matter of form by deleting reference to the Occupational Superannuation Standards Act 1987 and substituting the Superannuation Industry (Supervision) Act 1993. There are changes to a number of Acts, removing provisions relating to discrimination on the basis of age. For example, although it is typical it is not the case in all of them; for instance, section 8(1)(g) of the Small Claims Tribunals Act 1974 states that a referee who immediately before his appointment as a referee was an officer of the Public Service of the State -

(iii) shall, if he resigns his office or his term of office expires by effluxion of time before he attains the age of sixty-five years, be entitled to be appointed to an office in the Public Service of the State not lower in status than the office which he so occupied immediately prior to his appointment as a referee.

The Bill operates by way of example by deleting "before he attains the age of sixty-five years". It is a reasonable summary of the sorts of provisions contained in those changes to a number of Acts. These are appropriate amendments to the law. The ALP supports them.

HON HELEN HODGSON (North Metropolitan) [9.21 pm]: The Australian Democrats also support this Bill. We are very conscious of the need to ensure minority groups in our society are not discriminated against, and that includes people discriminated against on the basis of age. Age discrimination works in two ways: People at the senior end of the spectrum and also younger people are discriminated against on the basis of age. I can point to a particular example where a certain act is criminal if a person is under the age of 21 years and perfectly legal if one is over the age of 21 years. In those instances age discrimination should work both ways.

Basically Australia has an ageing community and these issues are arising as people get older and face certain problems. This Bill is very much a case of tidying up anomalies that occurred when the original amendments to the Equal Opportunity Act were passed in 1994. A number of areas were overlooked at that time, and this Bill picks them up. The one example worthy of mention is that section of the Equal Opportunity Act that states the Commissioner for Equal Opportunity must retire at the age of 65 years. This will be repealed under the amending Bill. That is typical of the cases that have been identified and dealt with in this Bill. On that basis the Australian Democrats support the Bill.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and transmitted to the Assembly.

PUBLIC NOTARIES AMENDMENT BILL

Second Reading

Resumed from 17 September.

HON N.D. GRIFFITHS (East Metropolitan) [9.24 pm]: The Public Notaries Amendment Bill has the support of the Australian Labor Party in this House. I note that many of us have been waiting to debate this Bill with great vigour for some time. We are tired of the waiting and if the vigour is lacking, that is probably the reason! As we are dealing with public notaries, I wish the public to note their historic significance. They are very significant and this Bill is not unimportant.

I note from the second reading speech that opinion has been received from the Crown Solicitor's Office to the effect that section 58W of the Legal Practitioners Act does not apply to enable the legal costs committee to make a determination in respect of notaries' fees. I can readily see how that opinion was arrived at, and I note that this Bill enables that committee to determine the maximum fees to be charged by public notaries.

I have a concern about the way things are happening in the Parliament. We recently dealt with amendments to the Legal Practitioners Act. In fact, we dealt with matters dealing with remuneration and costs. To my mind it would have been a more efficient process to have dealt with what is proposed to mirror this provision in terms of further amendments to the Legal Practitioners Act at that time. I voice my concern about the administrative process. These things should be dealt with at the one time. It is one issue. What is sought to be done is appropriate. The committee is set up to govern the maximum fees, and it is appropriate when the Parliament considers it that it be dealt with as one piece of paper. I note it is foreshadowed that the Legal Practitioners Act will be further amended. It does not have to be, but it is better that the law be accessible and it is proper that it be amended. I wonder if some consideration could be given to an amendment to this Bill to enable that to be carried through to the Legal Practitioners Act so that it is not necessary for a further Bill to be introduced. I raise that at this stage for the Attorney General's consideration. It may be a matter of delaying the Bill for a matter of hours.

HON HELEN HODGSON (North Metropolitan) [9.28 pm]: The Australian Democrats support this Bill. It is fairly straightforward in that it puts services rendered by public notaries, which services are often rendered by legal practitioners, under an umbrella whereby the fees can be determined under the Legal Practitioners Act. Once again, we are dealing with the problem of proclamation clauses, and there are foreshadowed amendments on the Notice Paper dealing with the appropriate date of proclamation. Once again, 28 days' notice is ample to make sure the board has the opportunity to do what it is supposed to do under the provisions as they will be amended.

Therefore, the Australian Democrats intend to move an amendment, along the lines of that considered earlier this

evening on another Bill, to ensure proclamation is not deferred indefinitely but that matters start rolling within 28 days. With that reservation, the Australian Democrats support the Bill.

HON PETER FOSS (East Metropolitan - Attorney General) [9.30 pm]: The reason for my slight hesitation with regard to the foreshadowed amendment to clause 2 is what will be the legal consequences of stating that notaries public cannot charge more than the determination of the Legal Costs Committee if the Legal Costs Committee does not meet within 28 days and publish a determination? It may seem obvious to the member that the Legal Costs Committee can meet within 28 days, but I do not want to bet on that. We are trying to ensure that the determination and the Bill are contemporaneous. I do not believe it will take a lot of time, but I would hate to get the determination and the Bill out of sync. Notaries public function every day, and Hon Nick Griffiths referred to their important and historic role. Other countries use them more than we do. In civil law countries, notaries public perform a vital function, and if that came to a halt, the result would be total mayhem. The role that they probably perform most frequently in commerce is the noting and protesting of bills. Ships' protests are not quite so frequent; one needs a good storm for those to occur. The notarising of documents for international use is probably the one that the ordinary person comes across most frequently.

Hon N.D. Griffiths: What about my proposition that the foreshadowed amendment to the Legal Practitioners Act be dealt with in this Bill? I thought this amendment would cover that situation, and you foreshadowed it in the second reading speech. Rather than require people to pick up another piece of legislation, why not consider that matter in this Bill?

Hon PETER FOSS: I think we did that when we amended the Acts Amendment (Legal Costs) Bill in September.

Hon N.D. Griffiths: Is the Attorney General confident that the wording of that Bill deals with this matter?

Hon PETER FOSS: We inserted a new subsection (1a) in section 58W(1), which states -

> If -
>
> (a) another written law refers to a determination under this section; and
>
> (b) the determination is for the purposes of the written law that are, or include, purposes other than the purposes of subsection (1) (the **"other purposes"**),
>
> the Legal Costs Committee may make a determination for the other purposes.

Hon N.D. Griffiths: I was unknowingly misled by the second reading speech.

Hon PETER FOSS: At the time that speech was read by the Leader of the House, we had eight days before the Bill that was referred to was passed. The point raised by Hon Nick Griffiths has been determined by this House, and this will put the whole thing together.

Hon N.D. Griffiths: It is a new form of retrospective legislation.

Hon PETER FOSS: That is right. I thank members opposite for their support and ask that the Bill be passed in its current form.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon N.D. GRIFFITHS: The Committee will note that a number of amendments are listed on the Notice Paper about when this Bill will come into operation. There are three options: The one proposed by the Government; the one proposed by Hon Helen Hodgson, which is 28 days after royal assent; and the third one, which is for the sake of completeness but essentially provides for royal assent. Having listened to Hon Peter Foss and having noted how these committees get together and make determinations, from our point of view it would be inappropriate in this circumstance to do other than what the Government suggests.

Clause put and passed.

Clause 2: Commencement-

Hon HELEN HODGSON: I have listened to the Attorney General's comments about why a time of 28 days after the Bill receives royal assent will be insufficient time for the board to deal with its obligations under the Bill. The amendment requires the Legal Costs Committee to fix a fee from time to time. If the committee did not have the opportunity to meet and set a fee, would that mean that the fee would be treated as being nil, and if there were no fee, would that cause the problem to which the Attorney referred of fees being charged inadvertently that were in excess of that amount?

Hon PETER FOSS: That would certainly be arguable. It is actually a prohibition. It states that a notary public may charge a fee for providing material services, but that fee shall not exceed the fee for those services fixed from time to time by determination. There are two arguments about that. If it was clearly not allowing a fee, we might be better off than arguing about what the consequences might be. A section in the Interpretation Act does allow, once royal assent has been given, for subsidiary legislation to be made. If an Act is not proclaimed, it is still an Act. We can then pass the subsidiary legislation, which will come into effect on a certain day, and proclaim the Act to come into effect on the same day. If the committee did not fix a fee, notaries public might not be entitled to charge a fee at all.

Hon HELEN HODGSON: What time frame are we talking about? Does the Legal Costs Committee meet every two months, every six months or once a year?

Hon PETER FOSS: I think Hon Nick Griffiths has prompted me to say that when it comes to lawyers, we can almost not predict anything. Anyone who has tried to get comments out of the Law Society about legislation that is before this place will know the problems that we face when we try to get a bunch of lawyers to agree about something. It is rather difficult to get them to do so.

Hon N.D. Griffiths: Except for you and perhaps me.

Hon PETER FOSS: I do not know how often the committee meets. It normally meets only when there is occasion for it to do so.

Hon Helen Hodgson: Would this be such an occasion?

Hon PETER FOSS: Yes, but not a highly significant occasion. There are only a few notaries public in Western Australia, and they are appointed rarely by the Supreme Court.

Hon N.D. Griffiths: Very few people applied.

Hon PETER FOSS: They are still pretty tight on whether people can be appointed.

Hon N.D. Griffiths: Few people applied, for a number of reasons. Not much money can be made, but there is some fuss and bother.

Hon PETER FOSS: It looks good after a person's name, but that is about all. It is also a useful service. Most people do it as a service for clients. It makes it easier because they can deal with one thing at the one time. It is more a service than anything else.

I cannot predict when the committee will meet. It is an occasional committee. I do not think it would regard it as one of its high priority tasks to deal with notaries public. Having met and considered it, obviously it would have questions to ask of notaries public as to the amount of time taken to do various tasks. I suspect it would be an iterative process. I would hate to predict it. We would go through the process of saying that the Act has been passed, we will proclaim it, and it should proceed with passing a determination and making it happen prospectively. Section 25 of the Interpretation Act will allow it to do that. As soon as that is done we will be able to proclaim it.

Hon HELEN HODGSON: I note the comment about the body not being under the control of the Government, because it is an external body. I seek a commitment that the body will be notified as soon as the legislation has received royal assent so that it can get on with the job.

Hon PETER FOSS: The normal process in the department is that once an Act is passed through Parliament we try to inform everyone about it. That normal process will be followed by the Ministry of Justice.

Clause put and passed.

Clauses 3 to 5 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

CRIMINAL LAW AMENDMENT BILL

Introduction and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [9.45 pm]: I move -

That the Bill be now read a second time.

The criminal law of this State is a matter of great importance to those involved in law enforcement and, perhaps more importantly, to members of the community. Reflecting this, members of the House are no doubt aware that I recently announced a significant review of the civil and criminal justice systems.

The Law Reform Commission has been asked to look at the laws, procedures and practices relating to criminal trials and civil litigation, including the role of the legal profession, and to make recommendations as to what changes are necessary to provide the community with a more accessible, affordable and less complex legal system.

Another means by which efforts have been made to ensure the relevance of the criminal law is the number of Criminal Law Amendment Bills which have been brought before the Parliament over recent times. In general terms these Bills have provided an opportunity for the Government to advance a diverse range of amendments to the criminal law.

Pending the outcome of that review, the Criminal Law Amendment Bill reflects a considered response to a range of more pressing issues of concern to the community and facilitates effective enforcement of the criminal law.

Before commenting on the details of the Criminal Law Amendment Bill, I take this opportunity to comment on some specific issues relating to the recently enacted "three strikes" laws. Through the enactment of the Criminal Code Amendment Act (No 2) 1996 it was the intention of Parliament that repeat adult and juvenile home burglars be sentenced to a mandatory 12 months' imprisonment or detention. However, in February 1997 the President of the Children's Court found that in respect of a juvenile repeat home burglar the Young Offenders Act 1994 allowed a court to release such an offender on a 12 month intensive youth supervision order under section 98 of that Act. Advice received indicated that this interpretation was correct.

The Government considered drafting an amendment to section 401 of the Criminal Code to prohibit the court from making such an order under section 98 of the Young Offenders Act 1994, but with some limited discretion with regard to offenders under 13 years of age.

Analysis of the operation of the Criminal Code Amendment Act (No 2) 1996 revealed that of the first 50 or so juveniles who had appeared before the court, only four had been given an intensive youth supervision order. Of the four, one was subsequently placed in detention for breach of the order. Therefore, the Government has decided not to move to amend the provisions of section 401 of the code. I am pleased to say that, in my view, this is an area where the judiciary can clearly be seen to be exercising its discretion in a responsible and appropriate manner.

Overview of the Bill: The Criminal Law Amendment Bill seeks to -

amend section 236 of the code dealing with the taking of forensic samples;

amend section 297 of the code to increase the penalty for grievous bodily harm;

amend chapter XXXIIIB of the code concerning stalking;

insert section 474 in the code in relation to counterfeit instruments in the context of preparation for forgery;

enact provisions in relation to offenders who renege on promises to assist the Crown;

amend the Sentencing Act 1995 in relation to whole of life sentences;

ensure that time spent on remand by juveniles in relation to sentences of detention is credited; and

miscellaneous matters.

I will now comment on each of these matters in some detail.

Amendment to section 236 of the code dealing with the taking of forensic samples: The Police Service currently

obtains approximately 500 samples per year from persons in custody, which are normally obtained in relation to serious criminal offences such as murder, sexual assault and serious assaults. However, in the light of a recent decision in the Court of Criminal Appeal, the Police Service, under the present provisions of section 236, is unlikely to be able to continue to take such samples from persons.

In taking samples, the Police Service had considered that an "examination" of a person in custody included the taking of samples such as blood from the person. The Police Service based this view on the broad definition given to the term "examination" by the South Australian Supreme Court in Queen v Franklin (1979) 22 SASR 101. However, the term "examination" in section 236 has been considered by the WA Court of Criminal Appeal in King v Queen, Supreme Court, delivered 26 August 1996.

Wallwork J in King considered that section 236 of the Criminal Code did not authorise the taking of a blood sample from a person without the person's consent. Rowland and Ipp JJ also indicated that they were unlikely to give a broad definition to the term "examination" as provided in Franklin. Also, Rowland J was of the view that it would be desirable for the WA Parliament to expressly provide the taking of samples from persons in custody on a charge of committing an offence as he had "grave doubts" that section 236 permitted such an examination.

In support of reform in this area, the Murray report on the Criminal Code at page 145 had earlier recommended that section 236 be amended to confer a power to "take samples of bodily fluids such as blood or saliva or substances such as hair or fingernail clippings from an individual without his consent".

The Bill amends section 236 of the Criminal Code by inserting a third paragraph into the section, to provide that the examination of persons in custody include taking samples of the person's blood, saliva, hair and nail clippings, or of any matter which could be obtained by way of a buccal swab. While clearly to the benefit of law enforcement in this State, in effect this amendment does little more than formalise existing practice, about which legal doubts have recently arisen.

Amendments to section 297 to increase the penalty for grievous bodily harm: The offence of grievous bodily harm can arise under a range of circumstances, from bodily injuries which may be likely to cause permanent but minor injury to health, through to catastrophes which may render a person comatose and entirely dependent on others. More importantly, the harm can arise in circumstances with a wide variety of culpability, from a minor altercation with unexpected consequences to a much more vicious attack close to the offence of intending to cause grievous bodily harm.

Where the injuries or behaviour tend towards the upper end of the scale, the penalty of seven years' imprisonment as a maximum fails to properly reflect the effect on victims or the culpability of the assailant, and it fails to provide an appropriate sentencing range to deal with the range of circumstances that the offence includes. The Murray report on the Criminal Code found that the offence is underpenalised as it can involve the doing of very serious injury in circumstances where the intent to harm is not present, or that similar intents which are involved in very serious offences against the person cannot be proved. The report therefore recommended an increase in penalty to 10 years' imprisonment.

I should mention that the maximum penalties imposed by other States and Territories in Australia for the offence of grievous bodily harm or similar offences range from seven to 14 years, excluding the Tasmanian position because of the unusual structure of its penalty scheme.

The Bill proposes an increase in the maximum penalty in section 297 of the Criminal Code from seven to 10 years, an increase which would both have the support of the public and be consistent with the logical structuring of penalties under the Criminal Code.

Amendments to chapter XXXIIIB of the Code concerning stalking: As part of the Government's law and justice policy in 1994, the Criminal Code was amended by the Criminal Law Amendment Act to create the offence of stalking. The legislation is based on the premise of the accused intending to prevent or hinder the victim from going about his or her normal lifestyle or intending to cause physical or mental harm or apprehension or fear in the victim.

Shortly after the enactment of the stalking provisions, a number of cases were heard in the Court of Petty Sessions which indicated that some forms of "stalking" were not provided for in the legislation. In one case, where the accused visited the complainant's home and office over a period of seven years, the magistrate found that the accused had not intended to intimidate or frighten the complainant; therefore, the behaviour was not within the provisions of the stalking legislation. In another case, the accused had anonymously put flowers, chocolates and music tapes on the complainant's car, and on a separate occasion had sent flowers to her office. The conduct occurred over a period of three months. Again, it was found that there was no direct evidence that the accused had intended to cause harm or fear to the complainant.

Consequently, it has been decided that the stalking provisions need to be extended to cover those situations where there is no intent on the part of the accused but the victim nevertheless fears for his or her safety or is prevented from going about his or her normal lifestyle. Therefore, the Bill provides for a new simple offence of stalking which does not involve any intent on the part of the accused.

It will be necessary under the new simple offence for the stalking behaviour to cause another person "reasonably" to fear for their safety. Although it is possible that the defendant may not be aware of the likely effect of their unwelcome attentions, the proposed amendments are concerned with conduct that causes victims to reasonably feel threatened, intimidated or frightened, rather than being concerned with the state of mind of the defendant. Importantly, the requirement that the stalking behaviour causes another person "reasonably" to fear for their safety will prevent the simple offence provision from being over broad; therefore, it will not sweep innocent and acceptable conduct into its net of culpability.

In the course of drafting the new simple offence provisions, it was decided to redraft the entire chapter of the Code dealing with stalking to ensure that the wording and structure were more readily understandable. The chapter is now entitled "Stalking" and the behaviour that constitutes stalking is now couched in terms such as "pursue" and "intimidate".

The other significant changes in relation to stalking are that the new simple offence has been structured in such a way that it can be an alternative verdict for the more serious indictable offences; and the elements which constitute stalking, in particular the issue of persistently telephoning, have been extended so as to capture other forms of communication. Again, these changes reflect community sentiment; namely, that people in the community must be protected by well-considered stalking provisions.

Insertion of section 474 in the Criminal Code in relation to counterfeit instruments in the context of preparation for forgery: Currently, the possession of forged credit cards and the possession of equipment to prepare such forgeries is merely preparatory conduct, not an offence in its own right. However, it is reasonable to take the view that there is sufficient criminality in that conduct to warrant making it an offence. It is already an offence in New South Wales, Victoria and the Australian Capital Territory. Further, the Model Criminal Code Officers' Committee, in its final report on chapter 3 entitled "Theft, Fraud, Bribery and Related Offences" dated December 1995, recommended that there be offences for the possession of a false document and for the making or possession of devices for making such false documents. Such offences are not presently provided for in the Criminal Code.

Chapter LI of the Criminal Code, which was entitled "Preparation for Forgery", previously provided a range of offences which might generally be described as acts preparatory to the substantive offence of forgery or uttering. In his Code review, Justice Murray recommended the repeal of the chapter, not because he thought that the preparatory activities dealt with in the chapter should be proscribed by criminal law, but because he had proposed that there should be a general preparation offence. His recommendation for the repeal of the then chapter LI was given effect by the Criminal Law Amendment Act 1990; however, no "preparation for forgery offence" was created.

The Criminal Law Amendment Bill in effect creates two new offences: One dealing with the possession of forged records with the intention that the person or another will utter the forged records with the intent to defraud, and another offence concerned with the possession of any device designed or adapted for the making of a false record, intending that it be so used. In summary, this is an amendment which seeks to overcome a clear anomaly and thereby improve upon the overall structure and schema of offences under the Code.

Amendments in relation to offenders who renege on promises to assist the Crown: The purpose of the proposed amendments is to strengthen law enforcement and to provide a mechanism to encourage offenders to cooperate with law enforcement agencies. An offender who undertakes to assist law enforcement authorities is invariably given a reduction in sentence. However, a problem arises when the offender subsequently reneges on that undertaking.

The amendments will provide that a court sentencing an offender who has promised to assist authorities should be required to stipulate the reduction in the sentence that is being given because of that promise. Where the offender reneges on that promise, the prosecution can request the court to substitute the sentence that would have been imposed but for the reduction. The amendments will also enable an appeal court to take into account an offender's promise, and the extent to which it has been fulfilled, when considering matters on appeal. This is a commonsense change to the law, and one which the community would expect to have always been in place.

Amendments in relation to whole-of-life sentences: In 1988, the Western Australian Parliament, through the Criminal Law Amendment Act, enabled a sentencing judge when imposing a sentence of strict security life imprisonment for wilful murder to make a "natural life order" to the effect that the offender should never be released on parole. These legislative provisions have come under scrutiny in the sentencing of William Patrick Mitchell, the Greenough murderer.

Pursuant to the then provisions of the Criminal Code, the sentencing judge imposed a sentence of strict security life imprisonment, and in exercising discretion on whether to grant eligibility for parole, the judge said that looking 20 years ahead he could not say that the defendant would not benefit from parole. His understanding was that the decision as to parole was related to the benefit it would provide to the defendant rather than as an element of punishment. By a majority decision, the Western Australian Court of Criminal Appeal allowed a crown appeal and ordered that Mitchell should never be eligible for parole. However, a unanimous High Court decision in March 1996 set this order aside and would not allow the Court of Criminal Appeal to substitute its views. The legislative provisions of the Criminal Code in respect of life imprisonment have now been transferred to the Sentencing Act, which came into effect in November 1996.

The issues raised by the High Court in the Mitchell case warrant an amendment to the Statute in order to reinforce the punishment nature of the statutory provisions, and to make the task of the trial judge clearer in the event that such an exceptionally serious crime as that of Mitchell's is again committed in Western Australia. The proposed provisions require that a court should not have regard to the factors that would ordinarily be used for determining eligibility for parole. Rather the provisions have been structured so that the court must have regard to the community's interest in punishment, deterrence and retribution. Crediting of time spent on remand in relation to sentences of detention: Currently a court may give credit for time spent in custody on remand either by reducing the sentence it wishes to impose, or by backdating the commencement of the sentence. However, the relevant provision, section 87 of the Sentencing Act, is limited to sentences of imprisonment. The Young Offenders Act is silent on the question of credit for time spent remanded in custody when sentencing juvenile offenders to periods of detention. It has been the practice of courts, when sentencing juveniles to a period of detention, to give credit for any period spent on remand by reducing the sentence. However, no provision exists within the Act for the "backdating" of detention sentences.

With the enactment of the Criminal Code Amendment Act (No 2) 1996 - the "three strikes" burglary laws - courts are more limited in applying credit for time spent in custody. The enactment of mandatory 12 month sentences has meant that, in the case of adults sentenced to imprisonment, the court can only give credit by backdating the commencement of the sentence. In the case of juveniles sentenced to detention, no statutory option exists to give credit for time spent on remand as the Young Offenders Act makes no provision for this to occur. The Bill proposes an amendment to the Young Offenders Act to make provision for the crediting of time spent on remand along similar lines to section 87 of the Sentencing Act.

The Criminal Law Amendment Bill also contains a number of miscellaneous amendments and repeals to aspects of the criminal law. These matters include -

> Consequential amendments to the Criminal Code are included in the Bill to remove habitual criminal provisions which were overlooked in the Sentencing (Consequential Provisions) Act 1995;
>
> repeal of certain provisions in the Criminal Law Amendment Act, Sentencing Act and the Sentencing (Consequential Provisions) Act which were enacted but never proclaimed as a result of the closure of the work camp;
>
> minor amendments and repeals to various sections of the Young Offenders Act as a result of the closure of the work camp;
>
> in the recent decision of the Supreme Court in Robertson v State of Western Australia - library No 970095C - the Full Court held that certain sentence calculation provisions in respect of fine default periods and their effect on parole sentences were invalid due to lack of statutory enactment. To overcome these issues amendments have been drafted to section 8 of the Sentence Administration Act; and
>
> repeal of various provisions in the Sentencing (Consequential Provisions) Act which were enacted but never proclaimed due to being overtaken by other legislative reforms.

As I pointed out earlier, the Government is committed to significant reforms of the civil and criminal justice systems. The Criminal Law Amendment Bill is part of this process of reform. The Bill amends provisions of the criminal law that are either unworkable in their present form, or require amendment in order to improve community confidence in the criminal justice system. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)

Receipt and First Reading

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

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.58 pm]: I move -

That the Bill be now read a second time.

This Bill, in the form of Appropriation (Consolidated Fund) Bill (No 4) 1996, was presented to Parliament last year, but due to the urgency of other parliamentary business did not proceed beyond its second reading in the Legislative Assembly on 13 November 1996. The Bill has now lapsed, as a result of its not being finalised before the December 1996 election and the prorogation of Parliament, and I now reintroduce it as Appropriation (Consolidated Fund) Bill (No 3) 1997.

The Bill seeks to appropriate out of the consolidated fund the sum of $70 601 439.99 for capital payments made during the financial year ended 30 June 1996, for purposes and services detailed in schedule 1 of the Bill.

The payments, which were of an extraordinary and unforeseen nature, were made under authority of the Treasurer's Advance Authorization Act 1995 and charged to the consolidated fund under authority of section 28 of the Financial Administration and Audit Act. These payments reflect excess expenditures against 1995-96 appropriations and expenditures for which there were no appropriations during 1995-96.

Capital expenditure transactions amounted to $1 326.2m, a net increase of $777.6m from the 1995-96 budget estimate of $548.6m. The unforeseen expenditure appropriation of $70.6m sought in this Bill and additional expenditure of $790.9m authorised by other Statutes - mainly resulting from accelerated debt repayments associated with the sale of BankWest - was offset by underspendings of $83.9m against other votes.

As underspendings against other votes cannot be netted against excesses or new items approved under the Treasurer's Advance Authorization Act, parliamentary authorisation is required for each vote where expenditure exceeds appropriation or for a new item. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

INTERPRETATION AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [10.00 pm]: I move -

That the Bill be now read a second time.

This Bill will amend the Interpretation Act 1984 by clarifying what has generally been understood to be the law in this State in relation to licence fees. In particular, until this year it has been accepted in setting the quantum of licence fees prescribed by subsidiary legislation that regard may be had not only to the direct cost of issuing the licence, but also to all other costs of administering the licensing scheme.

The amendment has been introduced in response to the recommendation of the parliamentary Joint Standing Committee on Delegated Legislation that the following regulations be disallowed -

(1) Regulations 3(a) and (d) of the Road Traffic (Drivers' Licences) Amendment Regulations (No 2) 1997; and

(2) Regulation 3(a) of the Road Traffic (Licensing) Amendment Regulations (No 2) 1997

and the subsequent acceptance of that recommendation by the Legislative Council.

Regulations 3(a) and (d) of the Road Traffic (Drivers' Licences) Amendment Regulations (No 2) 1997 introduced small increases to the licence fees payable for one year and five year drivers' licences while regulation 3(a) of the Road Traffic (Licensing) Amendment Regulations (No 2) 1997 increased the "recording" fee payable for vehicle licences.

The parliamentary joint standing committee formed the view that the fees were ultra vires the regulation making power in the Act because, according to the committee, the relevant sections of the Act did not authorise the making of regulations which go beyond "fees for services" and the licence fees therefore amounted to the imposition of taxation.

This view would, in the event of its being further accepted by either House, herald a new approach by Parliament.

It would mean that only the direct costs of issuing a licence to a person would be recoverable as a prescribed licence fee. All other costs of administering a licensing scheme would not be recoverable by licence fees.

This view of the committee was not supported by the advice of crown counsel or of a leading Queen's Counsel not previously involved in the matter who advised that the approach taken by the committee suggested that an inappropriately narrow view had been taken of the ambit of the power to fix fees under the relevant sections of the Road Traffic Act.

The proposed amendment will clarify the position by confirming that where a written law confers the power to prescribe or impose a fee for a licence, the power includes power to prescribe or impose a fee that takes into account any expenditure - including future expenditure - that is reasonably related to the scheme or system under which such licences are issued. Any fee that goes beyond that reasonable relationship so as to impose taxation, or raise revenue, in a general way will still be invalid unless it can be shown to be authorised by Statute in its particular circumstances. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

PAY-ROLL TAX AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.02 pm]: I move -

> That the Bill be now read a second time.

This Bill seeks to rectify minor errors in the Pay-roll Tax Act. On 25 June 1997, the Revenue Laws Amendment (Taxation) Act received royal assent. That Act included amendments to the Pay-roll Tax Act to implement a new tax scale which, among other things, reduced the top marginal tax rate from 6 per cent to 5.56 per cent. In a review of the amendments by the State Revenue Department, it became apparent that certain references to 6 per cent in the Act were not replaced by the appropriate reference to 5.56 per cent, due to an oversight. Although the tax scales contain the correct references to 5.56 per cent, the omission is in relation to circumstances in which -

> The top marginal rate is to apply to wages where an estimate of those wages is not provided to the commissioner for determination of an appropriate rate based on that estimate;
>
> the commissioner can determine a rate below the top marginal rate where an estimate of wages is provided; and
>
> the top marginal rate is to apply where a return is not lodged with the commissioner to enable him to reconcile wages for a previous year, thereby determining the rate which should have applied.

This oversight has not caused any difficulties to taxpayers. However, the Bill seeks to make the changes retrospective to 1 July 1997, being the date the new rate scale took effect. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

House adjourned at 10.04 pm

QUESTIONS ON NOTICE

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

SCHOOLS - GOVERNMENT

Credit Reference Association of Australia - Access

665. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

(1) Does the Education Department have a policy on -

(a) Government schools accessing the Credit Reference Association of Australia ("CRAA") for the purpose of checking the credit rating of parents; and

(b) Government schools listing with the CRAA unpaid school fees as bad debts?

(2) If not, does the department intend to develop a policy?

Hon N.F. MOORE replied:

(1)-(2) A policy and guidelines document relating to school charges in government schools is currently being developed by the Education Department. This policy is currently undergoing consultation with key groups, such as Western Australian Council of State School Organisations and State School Teachers Union.

Prior to the release of the policy, the Department has issued a memo to all government schools in Western Australia suggesting that the Credit Reference Association of Australia only be used for the purpose of a credit check on a company or business, or information as a sole trader, when entering into contracts for general business purposes not for the purpose of checking the credit rating of parents.

SCHOOLS - FIRE HAZARDS

Sprinkler Installation

669. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

In view of the recent Churchlands Senior High School fire which caused $3m damage, bringing the total fire damage to Western Australian schools in the past 18 months to $6m -

(1) Could the Minister for Education advise what percentage of schools have sprinklers?

(2) Will the Government put sprinklers into new schools which have been identified as part of their capital works program?

Hon N.F. MOORE replied:

(1) No schools are equipped with fire sprinkler systems. In the case of an emergency, the teachers' primary responsibility is the safe evacuation of the classrooms.

(2) No. It is considered that other measures such as intruder alarm and smoke detection systems are more cost-effective than fire sprinkler systems. Fire sprinkler systems could cause considerable damage to the learning and teaching resources of students and teachers respectively.

UNIVERSITIES - EDITH COWAN

Bunbury Campus - Transfer to Murdoch University

679. Hon BOB THOMAS to the Leader of the House representing the Minister for Education:

(1) What additional educational outcomes will result from the Murdoch University takeover of the Bunbury Edith Cowan University ("ECU") Campus?

(2) What is the amount that ECU subsidises the Bunbury Campus over and above the amount it receives for the Bunbury enrolment?

(3) Have any courses been withdrawn from the Bunbury Campus in the past two years?

(4) If so, what were they?

(5) Why was the aviation course not run at the Bunbury Campus?

(6) What new programs will be run at the Bunbury Campus in 1998?

Hon N.F. MOORE replied:

(1) Although no formal commitment has been provided by Murdoch University, it proposes the introduction of new courses and an improvement in staffing levels, growth funding and general "autonomy" of the Bunbury Campus.

(2) Direct allocations to the Bunbury Campus exceed Bunbury's "entitlement" in 1997 by $860 000.

(3) No.

(4) Not applicable.

(5) It was expected that there would be greater demand if the course was offered in Perth.

(6) Murdoch University has indicated it will offer the first year of the Law course and introduce Environmental Science. Edith Cowan University has recently indicated it will introduce two new courses in 1998 - Professional Practice (Accounting) and Small Business Management.

ABORIGINES - ABSTUDY ASSISTANCE

Access

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

(1) Is the Minister for Education aware of the dramatic increase in the difficulties Aboriginal students and families face in accessing Abstudy assistance from the Commonwealth this year?

(2) What steps is the Minister taking to ensure his Commonwealth counterparts do not put policy and structures in place that further discourage Aboriginal participation in education programs?

Hon N.F. MOORE replied:

(1) Yes.

(2) Evidence suggests that the difficulties arising from the changes to Austudy were unintended consequences and the Federal Government has commissioned a review of Abstudy, in light of this issue. I have requested the Education Department of Western Australia to develop a position paper which will be submitted to the review.

FORESTS AND FORESTRY - REPORT OF THE REVIEW PANEL ON DIEBACK

Volume Two

710. Hon NORM KELLY to the Minister for Finance representing the Minister for the Environment:

(1) In November 1996, Volume 1 of the Report of the Review Panel on Dieback, chaired by Dr Frank Podger, was made public. At what stage is the preparation of Volume 2 of the panel's report?

(2) Is the work of the panel ongoing or has it ceased to function?

(3) Will the Minister for the Environment provide a status report of the implementation of each of the 33 recommendations of the panel?

(4) The panel concluded that dieback "is of great seriousness and importance, comparable to salinisation in the farming areas". Given this grave warning, what is the Government's annual budget for tackling dieback over the next five years?

Hon MAX EVANS replied:

(1) The WA Dieback Review Panel was commissioned only to report on the dieback problem in WA. This task was completed with the submission of its report to the Hon Minister for the Environment in October 1996.

Because he thought the information to be of value, and as a service to the public of WA, the Panel Chairman, Dr Podger, has undertaken in his own time and at his own cost to produce a compendium of information generated during the review process.

The Government has not contracted Dr Podger to do this work. However, Dr Podger has indicated that the compendium has been delayed due to other commitments.

(2) The Panel has completed its task.

(3) I will be announcing the Government's detailed response to the recommendations of the WA Dieback Review Panel in the near future.

(4) In 1997/98 approximately $1.25 million will be spent on dieback management. Future funding has not been determined at this time.

MINING - URANIUM

Acclaim Uranium NL

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

Acclaim Uranium NL recently announced it had established a portfolio of 14 potential uranium mines in Western Australia. Can the Minister for Resources Development advise -

(a) the location of those mineral or exploration licences by number and name; and

(b) if any negotiation has taken place between DRD, the Minister or any Member of the Liberal Party in Parliament, in any way, in relation to the establishment of these licences or proposed mining of uranium by Acclaim NL in Western Australia?

Hon N.F. MOORE replied:

The Minister for Mines has responded for part (a) of this question:

(a) I have been informed by the Department of Minerals and Energy that both Acclaim Exploration NL and Acclaim Uranium NL, either solely in their own names or in partnership with other parties, or by way of a beneficial interest, hold or have applied for the following mining tenements (for all minerals including uranium) within Western Australia -

LOCALITY	**TENEMENT**	**HOLDER/APPLICANT**
Anketell	Application for Exploration Licence 58/211	Acclaim Exploration NL
Myroodah	Application for Exploration Licence 04/1078	Acclaim Exploration NL & Kallenia Mines Pty Ltd
Lake Maitland	Exploration Licence 53/686	Sandstone Resources NL

LOCALITY	**TENEMENT**	**HOLDER/APPLICANT**
Turee Creek	Exploration licence 52/1240	Acclaim Investments Pty Ltd
Wondinong	Application for Exploration Licence 58/210	Acclaim Exploration NL
Yinnetharra	Application for Exploration Licences 09/866, 09/867, 09/872, 09/873, 09/874, 09/875, 09/876 and 09/888	Acclaim Exploration NL

Lyndon	Application for Exploration Licence 09/878 Exploration Licence 09/858	Acclaim Exploration NL WR Richmond & M H Ynema
Mundong	Exploration Licence 08/918	Tied Investments Pty Ltd
Mulga Rock	Exploration Licences 39/639 and 39/640	Acclaim Exploration NL
Oobagooma	Application for Exploration Licence 04/1076	Acclaim Exploration NL
Kintyre	Application for Exploration Licences 45/1891 and 45/1911	Acclaim Exploration NL
Angelo River	Exploration Licence 52/1246 Prospecting Licences 52/877 and 52/878	Acclaim Exploration NL Acclaim Exploration NL & B Matich & M Shemmessian
Cogla Downs	Exploration Licences 51/776 and 51/778, Applications for Exploration Licences 51/787, 51/788 and 20/396 Applications for Exploration Licences 51/811 and 20/407	Acclaim Exploration NL Acclaim Uranium NL
Gascoyne	Application for Exploration Licence 09/877	Acclaim Exploration NL
Lake Mason	Applications for Exploration Licences 57/381 and 57/382	Acclaim Exploration NL

Acclaim Uranium NL's prospectus is provided for the member's information.

[See Paper No 1006].

(b) The Minister for Resources Development advises that the grant of exploration and mining tenements in this State is undertaken in accordance with the requirements of the Mining Act 1978 administered by the Department of Minerals and Energy which reports to the Minister for Mines. He further advises that neither he nor the Department of Resources Development has undertaken negotiations, in any way, in relation to the establishment of the referenced licences or proposed mining of uranium by Acclaim in Western Australia. He is also not aware of any similar negotiations having taken place with any members of the Liberal Party in the Parliament. [See paper No 1014.]

FORESTS AND FORESTRY - GIBLETT BLOCK

Logging - Ministerial Condition

759. Hon NORM KELLY to the Minister for Finance representing the Minister for the Environment:

Further to question on notice 594 of June 18, 1997 and the answer provided -

(1) Does the Beavis-Giblett MPA referred to extend into Beavis forest block at all?

(2) If yes, how many hectares are within Beavis forest block?

(3) Will the Minister for the Environment table a map showing the total extent of the Beavis-Giblett MPA as intended under Ministerial Condition (2) of February 10, 1998?

(4) Are any logging operations currently taking place within Beavis forest block, or planned to occur within Beavis block?

(5) Are any of these operations within the former Beavis-Giblett MPA that is the subject of the Ministerial Condition?

Hon MAX EVANS replied:

(1) Yes.

(2) 1400 hectares.

(3) Yes. [See Paper No 1009]. (Note the question refers to February 10, 1998. The Ministerial Condition is dated February 10, 1988).

(4) Yes.

(5) No.

EDUCATION - JOONDALUP DISTRICT OFFICE

Location

760. Hon KEN TRAVERS to the Leader of the House representing the Minister for Education:

I refer to the Minister for Education's recent announcement on new education districts in Western Australia -

(1) What will be the location for the new Joondalup District Office?

(2) If no decision has been made, why has that decision not been made and when will it be made?

Hon N.F. MOORE replied:

(1) It is proposed to relocate to 52 Davidson Terrace, Joondalup.

(2) The submission for leased premises for the above is currently under review by the Government Property Office (GPO). If and when endorsed by the GPO, final approval of the Hon Premier will be required.

CORRUPTION - ANTI-CORRUPTION COMMISSION

Police - Former Officer

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

I refer to the answer given to question 574 provided on June 17, 1997 and ask -

(1) Has the information sought been provided to the Premier?

(2) If so, when and from whom?

(3) If not, how did the Premier obtain the biographical detail disclosed by him in the Legislative Assembly on June 10, 1997?

(4) Has the information sought been provided to anyone else?

(5) If so, when and from whom?

(6) What reasons did the Anti-Corruption Commission give for its advice?

(7) When did it give its advice?

(8) Who, on behalf of the Anti-Corruption Commission, transmitted the advice?

Hon N.F. MOORE replied:

(1) No.

(2) Not applicable.

(3) The Anti-Corruption Commission provided the information.

(4) No.

(5) Not applicable.

(6) No specific reasons were given.

(7) 10 June 1997.

(8) The Chief Executive Officer.

ENVIRONMENT - BILBY

Translocation - Francois Peron National Park

768. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

I refer the Minister for the Environment to the release of Bilbies into the Francois Peron National Park -

(1) Will the Minister table the translocation proposal for the Bilby into the Francois Peron National Park?

(2) Has the proposal been approved by Conservation and Land Management's Animal Ethics Committee?

(3) Does this proposal meet world recognised animal ethics standards, and if so which ones?

Hon MAX EVANS replied:

(1)-(2) A translocation proposal has not yet been prepared for the Bilby.

(3) The CALM Animal Ethics Committee operates under the guidelines of the Australian Code of practice for the care and use of animals for scientific purposes.

TRANSPORT - SYSTEM

Expansion - Expenditure

836. Hon JOHN HALDEN to the Minister for Transport:

Since the election of the Court Liberal Government, how much money has been spent on the expansion of Western Australia's transport system?

Hon E.J. CHARLTON replied:

Since the Coalition Government was elected in 1993, it has considered the Transport system as an integral part of the State's economic growth. The Government is proud of its record in improving the efficiency of all facets of Transport and is committed to continue with this improvement and expansion where appropriate, by clear cost effective decisions that will benefit the majority of Western Australian taxpayers. Such improvements and expansion cannot be measured in money alone. If the member would like to be more specific in the information he is seeking, I will be happy to respond further.

EMPLOYMENT AND TRAINING - TRAINEESHIPS

Great Southern

845. Hon BOB THOMAS to the Leader of the House representing the Minister for Employment and Training:

Further to part (1) of question on notice 733 of 1997 -

(1) In percentage terms what is the rate of successful completion of small business traineeships in the Great Southern for the years -

(a) 1995/96; and
(b) 1996/97?

(2) What is the criteria for a business to participate in this type of traineeship?

Hon N.F. MOORE replied:

(1) (a) 1995/96 Not applicable. Small Business Traineeships did not commence until 1996.

(b) 1996/97 25%.

Accurate completion rates for Small Business Traineeships in 1996/97 will not be available until July 1998. This is due to Training Agreements being in place for 12 months and there will be a number of Traineeships which commenced in 1996/97 (eg May 1997) and are technically an unresulted completion at the time of querying the Training Records System, but are Traineeships which may well be successfully completed at a future date.

(2) Trainees and employers enter into a formal training agreement, which outlines their responsibilities and gives details of the traineeship. This agreement is registered with the Western Australian Department of Training.

The employer selects a minimum of 320 hours of training using relevant core modules. This training plan must be approved by the Small Business Training Company. This training may take place as on-the-job, off-the-job, or as a combination of both options.

SCHOOLS - PRIMARY

Yarloop - Reduction in Services

871. Hon J.A. COWDELL to the Leader of the House representing the Minister for Education:

(1) Is the Minister for Education aware that services at Yarloop Primary School have been significantly reduced since 1995, with cleaners cut by five hours a week and gardeners by two days a week?

(2) Can the Minister assure the House that these cuts have not adversely affected the school environment for children attending Yarloop Primary School?

Hon N.F. MOORE replied:

(1)-(2) Yarloop Primary School experienced cuts as part of the Education Department's 1994-95 program to improve the effectiveness and efficiency of day labour cleaning and gardening services.

Despite these cuts, the quality of services now provided are equal to, or better than, those prior to the changes. This has been confirmed by the Principal of Yarloop Primary School.

UNIVERSITIES - ABORIGINAL STUDENTS

Number

873. Hon RAY HALLIGAN to the Leader of the House representing the Minister for Education:

(1) How many Aboriginal students are enrolled at each campus of the four Government Universities?

(2) How many Aboriginal students are enrolled at each campus of the Edith Cowan University?

(3) How many Aboriginal students are enrolled at each campus of the Edith Cowan University as external students?

(4) How many Aboriginal students are enrolled at each Edith Cowan University campus in the Aboriginal orientation program?

Hon N.F. MOORE replied:

(1)-(2) The public universities have Aboriginal students enrolled at each campus as follows:

Curtin University	Bentley	445
	Hedland	1
	Joondalup	1
	Shenton Park	7
	School of Mines	2
	Total	456
Edith Cowan University	Bunbury	65
	Churchlands	8
	External Studies	52
	Joondalup	21
	Kalgoorlie	1
	Midland	12
	Mount Lawley	523
	Total	682
Murdoch University	Murdoch	82

The University of Western Australia	Crawley	147
TOTAL		1 367

(3) External students are enrolled through External Studies, not through campuses. Edith Cowan University has 52 Aboriginal students enrolled through external studies.

(4) Aboriginal students are enrolled at Edith Cowan University campuses in the Aboriginal orientation program (including the Aboriginal Foundation Studies Course, the Aboriginal Tertiary Studies Course and the Aboriginal University Orientation Course) as follows:

Bunbury	57
Midland	12
Mount Lawley	484
Total	553

EDUCATION - MINING AND PASTORAL REGION

Interactive Services - Funding

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

Further to question without notice 691 of August 26, 1997 asked by Hon Greg Smith in which the Minister for Education explained that all schools would have the opportunity to access education information and interactive services via the Internet, I ask -

(1) What additional funding has been provided for non-Government schools in the Mining and Pastoral region as part of the interactive services to schools?

(2) Does the Government acknowledge that it is increasingly difficult for non-Government schools in remote areas to provide the services required to ensure a complete education unless Government funding is provided to all schools for this service?

(3) Has the Government given consideration to extending this funding to non-Government schools within the Mining and Pastoral Region?

(4) If yes, from what date will the funding be allocated for their use for this program?

Hon N.F. MOORE replied:

(1)-(2) There is no specifically targeted funding for this purpose to non-government schools. The response to Question Without Notice 91 was applicable to Government schools only.

The general model for financial assistance to all non-government schools is based on student numbers (i.e. per capita) which, in turn, is based on a percentage of the benchmark cost of educating a student in a government school. Any additional funding provided for government school education, such as for the purpose indicated, will adjust the benchmark and, accordingly, will result in adjusted per capita amounts flowing through to non-government schools.

(3) No, given the reasons above. This model has wide acceptance within the non-government sector as giving these schools maximum flexibility to determine their own priorities for expenditure of the funds they receive from the government.

(4) Not applicable.

FUEL AND ENERGY - GAS

Goldfields Gas Pipeline - Tariffs

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

Has either the Minister for Energy, Office of Energy or Department of Resources Development been approached by either -

(a) ICI Pty Ltd;
(b) Wiluna Mines Ltd;
(c) Plutonic Resources Ltd;
(d) Anaconda Nickel NL;
(e) Jundee;

(f) Cause Nickel; or
(g) AlintaGas,

with concerns about the tariffs being charged by Goldfields Gas Transmission Pty Ltd for gas transmission on the Goldfields Gas Pipeline?

Hon N.F. MOORE replied:

There have been approaches from some companies on the issue of tariffs charged by Goldfields Gas Transmission Pty Ltd (GGT). In each case the companies have been able to resolve their concerns through direct contact with GGT and it has not been necessary to invoke relevant provisions of the GGT State Agreement Act.

None of the companies listed in the Question are presently involved in discussions with the Department of Resources Development or the Office of Energy concerning tariffs charged by GGT.

MINING - BAUXITE

Worsley Alumina Ltd - Expansion

904. Hon NORM KELLY to the Leader of the House representing the Minister for Resources Development:

With reference to recent media reports that Worsley Alumina Ltd plans to push ahead with a large expansion in its alumina refinery operations -

(1) By how much will bauxite output be increased (in tonnes)?

(2) By how much will the annual area of bauxite mining be increased (in hectares) once the expanded operation commences?

(3) Will the Minister provide maps showing -

  (a) the location and extent of Worsley's planned mining operations in State forests between now and the commencement of operation of the expanded plant;

  (b) the location and extent of Worsley's planned mining operations in State forests for the five years following the commencement of operation of the expanded plant; and

  (c) the vegetation types to be affected by mining operations as set out in (a) and (b) above?

(4) Does Worsley conduct any bauxite mining operations on private land?

(5) If yes, how much?

(6) Does Worsley conduct mining operations on any land other than State forest?

(7) If yes, how much?

Hon N.F. MOORE replied:

(1) From 6.4 Mt/a (1997) to approximately 12.6 Mt/a in 2000 or 2001.

(2) From current levels of approximately 80 ha/a to approximately 140 ha/a.

(3) (a)-(c) Yes. The attached copies of Figures 3, 5 and 9 from the approved 1995 Worsley Alumina Consultative Environmental Review show the Worsley project mining leases, the primary bauxite area and the main vegetation types. High conservation value areas are excluded from mining, and impacts on the Wandoo forest will be minimised.

(4) Yes.

(5) Approximately 10 ha in 1996, with 20 ha proposed in 1997.

(6) See (4).

(7) See (5).

Note: DRD and/or Worsley Alumina would be pleased to provide a detailed briefing at a convenient time for Hon Norm Kelly, MLC, on the issues raised in the Parliamentary Question.

[See Paper No 1007].

PARKS AND RESERVES - NATIONAL

Millstream-Chichester - Road and Rail Developments

913. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

With the potential for road and rail development to pass through the Millstream-Chichester National Park, what processes does the Government have to use to excise or permit these road or rail developments to occur within the national park?

Hon MAX EVANS replied:

Road or rail developments not associated with the National Park are likely to require area excisions by way of the Reserves Act and in the case of mining related developments a miscellaneous licence under the Mining Act. Notwithstanding the process, the proposal would be referred to the Environmental Protection Authority (EPA) for assessment and to the National Parks and Nature Conservation Authority (NPNCA) for advice to the Minister for the Environment and the EPA.

ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

Incinerator Site - Cytotoxic Material

915. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

(1) What is the total amount, by weight, of -

(a) cytotoxic materials; and
(b) gross medical tissue affected by cytotoxic chemicals,

that is sent for disposal to the Stephenson and Ward incinerator at Welshpool?

(2) Is this all disposed of at the Stephenson and Ward incinerator?

(3) If not, where else?

(4) Is there any other cytotoxic bio-medical tissue disposed of?

(5) If so, where?

(6) What is the total amount of bio-medical waste disposed of at the Stephenson and Ward incinerator in Welshpool?

(7) What percentage of plastics is included in this waste?

Hon MAX EVANS replied:

(1) The information is not readily available because cytotoxic wastes make up a part of the total waste stream to the incinerator. They are often parcelled inside secure containers, and hence are not separately identifiable.

The handling of the clinical waste stream is managed to ensure these materials are properly transported and treated.

I am advised that staff from the Department of Environmental Protection estimate that the total quantity of cytotoxic drugs and waste requiring destruction does not exceed five tonnes.

(2) Guidelines developed by DEP, and the public and private health systems, require all this type of waste to be incinerated rather than landfilled. I am advised that the Stephenson and Ward incinerator is the only facility licensed under the Environmental Protection Act to incinerate cytotoxic wastes.

(3) Not applicable.

(4)-(5) Refer to (2).

(6) Approximately 750 tonnes per year, dependent of course upon generation of waste from the health system.

(7) I am advised that it is not accurately known how much of this waste stream is plastics, but there are significant numbers of items such as sharp containers, gloves and coverings (made of plastic) incinerated. The pollution control equipment of the incinerator satisfactorily prevents emissions of harmful substances to the environment, and is designed to meet and is operating at world standards for air emission levels.

PARKS AND RESERVES - REGIONAL

Beeliar - Management

917. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

(1) Is the Department of Conservation and Land Management ("CALM") now managing the Beeliar Regional Park?

(2) If yes, when did it take over?

(3) If not, why not?

(4) Who are the members of the Community Advisory Committee for the Beeliar Regional Park?

(5) How many CALM rangers are involved in the management of the Beeliar Regional Park?

(6) Where are they located?

Hon MAX EVANS replied:

(1) Yes, in association with Local Government Authorities.

(2) 1 July 1997.

(3) Not applicable.

(4) Expressions of Interest from the community for membership of an Advisory Committee have been received. Appointments are yet to be finalised.

(5) CALM has four staff with direct responsibilities in the management of Beeliar Regional Park. None is allocated full time to Beeliar Regional Park.

(6) Perth District of CALM.

MINING - KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD

Fimiston II Tailings Dam - Dam Break Study

924. Hon GIZ WATSON to the Minister for Mines:

I refer to a letter addressed to a Mr P W Rowe, Registered Manager, Kalgoorlie Consolidated Gold Mines ("KCGM) signed by a Mr M Jones dated July 1, 1996, reference HJ:FK 2009/96 -

(1) Can the Minister confirm that this letter was sent to KCGM?

(2) If not, why not?

(3) With reference to part (3) of that letter, can the Minister explain what happened with the Harmony tailings disaster in South Africa?

(4) If not, why not?

(5) How many people were killed and injured in the Harmony tailings disaster in South Africa?

(6) Can the Minister advise whether the "thorough dam break study" has been undertaken to determine the probability of risks posed by the Fimiston II tailings structure to the National Railway line, as stated in the letter?

(7) If not, why not?

(8) If yes, who completed and carried out this thorough dam break study?

(9) Can the Minister advise what probability of risks posed by Fimiston II tailings structure to the National Railway line were determined?

(10) Are these risks acceptable to the department and the Minister?

(11) If not, why not?

(12) Can the Minister or the department provide a copy of the thorough dam break study?

(13) If not, why not?

(14) Can the Minister state why the "department regards KCGM's total approach to management of tailings as a very serious issue", as stated in the letter?

(15) If not, why not?

Hon N.F. MOORE replied:

(1) Yes.

(2) Not applicable.

(3) On the night of 22 February 1994 a tailings dam near the village of Merriespruit, South Africa failed with disastrous consequences. The details of the event are complex, the reasons for the failure highly technical. I refer the Hon Member to the paper entitled "The tailings dam flow failure at Merriespruit, South Africa: Causes and Consequences" written by Professor Geoffrey Bright and others and published in "Tailings and Mine Waste 1997" by Balkema, Rotterdam. Copy of the paper is attached (See tabled paper No 1008).

(4) Not applicable.

(5) 17 people were killed and an unknown number injured.

(6) Yes.

(7) Not applicable.

(8) Coffey Partners International Pty Ltd in Joint Venture with Metago Environmental Engineers.

(9) The probability of the following events impacting on the railway reserve are given in the report as:

Slope instability	7.72 in 10 000
Overtopping	4.93 in 1 000
Seismicity	8.38 in 10 000
Buried Structures	2.91 in 10 000
Layering	1.32 in 10 000 000

(10)-(11) The probability of an overtopping event, such as that which occurred on 22/23 May 1996 for which KCGM was recently fined, was not acceptable to the Department. Management practices have been changed and significant structural alterations to the tailings storage facility initiated by KCGM to address this.

(12)-(13) The Department has only one copy of this 400 page document and its associated drawings. However I am advised that KCGM would make a copy of the report which they commission, available to the Hon Member upon request. In addition Departmental officers could be made available at the Hon Member's request to fully brief the Hon Member on this complex and highly technical issue.

(14) The Department regards the total management approach to tailings structures of all operating mining companies as a very serious matter.

(15) Not applicable.

ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

Incinerator Site - Reports

926. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

(1) Is it not a fact that the reports listed below relating to PCB contamination at the Stephenson and Ward MediCollect incinerator site -

(a) investigation of soil and groundwater impact by PCBs Stephenson and Ward Incinerator Site 422 Welshpool Road, Welshpool (Fluor Daniel GTI (Australia) Pty Ltd - Alan Tingay & Associates);

(b) Stephenson and Ward, Environmental Risk Assessment and Risk Based Corrective Action (Rust PPK Pty Ltd); and

(c) report to the EPA on Stephenson and Ward Incinerator (A J McComb, Chairman of the Stephenson and Ward Site Community Liaison Committee),

all describe the original Stephenson and Ward incinerator as being commissioned in 1980 for the destruction of hospital waste, dead animals, confidential documents and X-ray film?

(2) If yes, is it not a fact that the original application to set up the incinerator included PCBs as wastes to be burnt?

(3) Was the Department of Environmental Protection the source of the information or advice on which the compilers of these reports relied for their account of the early history of the incinerator?

Hon MAX EVANS replied:

(1) All three reports referred to in the question described the incinerator as being designed to burn materials such as hospital waste, dead animals, confidential papers and X-Ray films. In addition, all of the reports state that the incinerator also incinerated a quantity of PCBs in the early 1980s.

(2) Yes, the original proposal included PCBs as a possible waste to be burnt in the incinerator.

(3) The original historical research for the site investigation was undertaken by Alan Tingay and Associates. The subsequent reports drew on the Alan Tingay report for historical information. In compiling the historical data for the site investigation, Alan Tingay and Associates examined files from the Health Department of WA and the Department of Environmental Protection, and interviewed staff from Stephenson and Ward and the Department of Environmental Protection.

ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

Incinerator Site - Alterations to Structure

927. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

(1) In relation to the Stephenson and Ward/Medicollect incinerator, between February 1996 and the present, have any alterations and/or changes been made to the -

(a) incinerator chimney;
(b) roof housing the incinerator;
(c) sides of the shed housing the incinerator; and
(d) incinerator itself?

(2) If yes -

(a) what were these modifications and/or changes;
(b) when were they carried out; and
(c) for each modification, why was it carried out?

(3) If not -

(a) have any such alterations and/or changes been proposed (please specify);
(b) have any such alterations and/or changes been approved by the Department of Environmental Protection;
(c) if yes, which; and
(d) will the alterations cause any delay or cause additional emissions during the construction phase?

Hon MAX EVANS replied:

(1) (a) Yes, I am advised that the tip of the chimney was altered prior to December 1996 to increase the velocity of the exhaust gases.

(b)-(c) I am advised by the Department of Environmental Protection that no alterations of any significance have been performed on the roof or the shed of the incinerator.

(d) I am advised by the Department of Environmental Protection that minor alterations have been made from time to time to enhance the control system for the incinerator and also for maintenance purposes (for example replacing thermocouples and solenoid valves). The operator has also replaced several parts on the incinerator which were constructed from mild steel with stainless steel to prevent corrosion as a result of the acid nature of the gases produced during combustion. The parts replaced were all located prior to the air pollution equipment associated with the incinerator which neutralises the acid gases and removes potentially hazardous pollutants prior to the release of the incinerator gases to atmosphere. As the changes were minor, and acted to improve the performance of the incinerator, none of the changes required assessment under the Environmental Protection Act.

(2) Refer to (1).

(3) (a)-(d) No alterations are proposed.

ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

Incinerator Site - Nature and Quantity of Wastes

928. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

(1) Further to question without notice 758 of September 9, 1997, has the Stephenson and Ward/Medicollect incinerator undertaken incineration under Category 60 of Schedule 1?

(2) If yes, what wastes were burnt and what quantity was incinerated?

Hon MAX EVANS replied:

(1) Yes.

(2) I am advised that the incinerator has occasionally burnt paper based records and computer tapes to destroy them on behalf of clients for security purposes. A small quantity of grease has been burnt as part of a trial to evaluate whether greases could be used as an alternative fuel.

ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

Incinerator Site - Malfunctions

929. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

(1) Further to question without notice 763, part (2) of September 10 1997, the reported emissions from the incinerator, and the investigation by the Department of Environmental Protection of their cause, did the incinerator malfunction on that day?

(2) If yes -

(a) what was the cause of the malfunction;
(b) how long did it last;
(c) did any emissions bypass the pollution control equipment during and immediately after the malfunction; and
(d) if yes, did the incinerator operator submit an official report on this incident as required by his licence conditions?

(3) Since February 1996, how many malfunctions, due to power failure, have been reported at the incinerator?

(4) Does the incinerator have a backup system to avoid the risk of waste emissions bypassing the incinerator pollution control equipment during malfunctions due for example to power failures?

(5) If yes, what is this system?

(6) If not, why not?

Hon MAX EVANS replied:

(1) As indicated in the answer provided to question 763, DEP officers investigated the complaint and found no evidence that the incinerator had malfunctioned.

(2) Not applicable.

(3) I am advised that, since the incinerator was recommissioned in February 1996, nine malfunctions have been attributable to Western Power faults. I am also advised that the incinerator control system was modified in February 1997 to reduce the incidence of shutdown due to power fluctuations. Since then there has only been one malfunction attributable to a Western Power fault.

(4) No.

(5) Not applicable.

(6) I am advised that it is not possible to develop a back-up power system which comes on line with sufficient speed to prevent by-pass on all occasions.

I am advised that the licensee modified the incinerator's control system in February 1997 to make it less sensitive to the effects of power failures and brown-outs and since this time there has only been one by-pass event due to failure of the Western Power power supply.

ENVIRONMENT - BIO SOLIDS AND COMPOSTING

Reserve 2933 - Site Studies

932. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

I refer to the approval for Bio Solids and Composting to be sited on Reserve 2933 - Lot 2129, McLauchlin Road, Postans -

(1) What tests or studies were done on groundwater movement in the area before approval was given to Bio Solids and Composting to operate at the site?

(2) What area of remnant vegetation will be cleared to allow Bio Solids and Composting to operate at the site?

(3) Did the Western Australian Water Corporation give clearing approval for the above site?

(4) Was the local council decision on the Bio Solids and Composting site application overruled?

(5) If so, on what basis?

(6) Has the Bio Solids and Composting application been given works approval?

(7) Is the site within the Peel Harvey catchment area?

(8) Is the Bio Solids and Composting site lined and bunded?

Hon MAX EVANS replied:

(1) I am advised that the Water Corporation established 14 groundwater monitoring bores on the site prior to developing the proposal for the biosolids composting facility. The bores are used to monitor groundwater at the Kwinana waste water treatment plant which currently discharges approximately 1 million litres of treated effluent per day onto an infiltration area at the plant.

This area is immediately adjacent to where the biosolids composting site is located. The bores were located following hydrological advice from the Water and Rivers Commission to monitor groundwater movement in a west south west direction.

The site also meets the requirements of the Joint Government Agency Guidelines for Site Selection for a Biosolids Composting Facility in Perth as it is located outside Underground Water Pollution Control areas and Ecological Management Areas which protect groundwater and significant wetlands. It also has excellent surrounding buffer zones and is close to composting feedstocks as recommended in the Guidelines.

(2) 4 hectares.

(3) Yes.

(4) The Kwinana Town Council initially appealed against the level of assessment for the biosolids composting proposal. However following a presentation to Council on the environmental benefits of the proposal it was subsequently approved. The proposal was also referred to the Metropolitan Regional Planning Commission which also approved construction of the facility.

(5) Not applicable.

(6) Yes, the Department of Environmental Protection views the composting of the biosolids as a very positive initiative by the Water Corporation. It will provide an opportunity to reprocess about 30 000 tonnes of biosolids waste currently stored at the waste water treatment plant which may otherwise be disposed of in landfills.

The proposal is in line with current Government policy to reduce waste going to landfill. It also assists efforts to reduce water consumption and improve soil quality which will result in better retention of nutrients from fertiliser in both commercial horticulture and domestic gardens. The latter benefit being achieved through providing substantial quantities of cheap high quality compost for the Western Australian market.

(7) Yes.

(8) The Biosolids and Composting site will be lined and bunded when it is constructed. It will have a sophisticated storm water diversion and leachate collection system which will direct any leachate into collection pond lined with red mud to strip nutrients from the leachate.

LAND - TITLE DISPUTE

Lot 17, Moran Street, Beaconsfield

934. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Lands:

In the matter of the title dispute between Jan ter Horst of 20 Moran Street and Mr Ilett of 8 Beard Street -

(1) Was the title held by Jan ter Horst cancelled and two new titles registered even though the original title was subject to a caveat?

(2) Does Section 139 of the *Transfer of Land Act* state:"...the registrar shall not enter in the register book any change in the proprietorship of or any transfer or other instrument purporting to transfer or otherwise deal with or affect the estate or interest in respect to which such caveat may be lodged"?

(3) Will the Minister for Lands take action to reinstate the original title of Lot 17 to the original or proper party in order to comply with the *Transfer of Land Act* Section 76?

(4) If not, why not?

Hon MAX EVANS replied:

(1) Mr Jan ter Horst held duplicate Certificate of Title Volume 1388 Folio 326. The original of that title was cancelled by the direction of the Commissioner of Titles, pursuant to section 77 of the *Transfer of Land Act 1893* and an order of the District Court in Action No. 7501/1989. This resulted in a new original Certificate of Title Volume 2039 Folio 100 being created in the name of Mr Jan ter Horst as the registered proprietor. Caveat No. E060425 and Caveat No. F172599 were noted on Certificate of Title Volume 1388 Folio 326 and were carried forward onto the new Certificate of Title Volume 2039 Folio 100. This action maintained the status quo and in particular did not prejudice the interests claimed in those caveats.

Caveat No. E060425 was withdrawn by the Caveator on 11 May 1994.

An application to register Strata Plan No 25587 over the land the subject of Certificate of Title Volume 2039 Folio 100 was lodged on 11 May 1994. This resulted in two new certificates of title being issued. Firstly, Certificate of Title Volume 1999 Folio 269 for Lot 1 on Strata Plan 25587, and secondly, Certificate of Title Volume 1999 Folio 270 for Lot 2 on Strata Plan 25587, both showed Mr ter Horst as the registered proprietor.

With reference to Lot 1 on Strata Plan 25587 as contained in Certificate of Title 1999 Folio 269, Caveat No. F172599 was still in existence and was carried forward onto Certificate of Title Volume 1999 Folio 269. Again, this action maintained the status quo and protected the interests of the Caveator.

With reference to Lot 2 on Strata Plan 25587 as contained in Certificate of Title Volume 1999 Folio 270:

(a) Caveat No. F172599 which was noted on that title was lapsed on 11 May 1994 following an application under section 138 of the *Transfer of Land Act 1893,* the Caveator not having taken legal action to prevent that lapsing; and

(b) A Transfer of that land from Mr ter Horst to Ashman Holdings Pty Ltd and Family Holdings Pty Ltd was registered.

The effect of cancellation of the original Certificates of Title Volume 1388 Folio 236 and Volume 2039 Folio 100 was not to change the ownership of the land contained in the titles. Mr ter Horst always remained the registered proprietor of the land contained in those certificates of title.

It must also be noted that the notation of a caveat on certificates of title does not, under the provisions of the *Transfer of Land Act 1893*, prevent the creation of a new certificate of title in respect of the former title over which the caveat was noted.

(2) No, the word "book" does not appear in section 139 of the *Transfer of Land Act 1893*, as a result of the amendments made to that Act by the *Transfer of Land Amendment Act 1996*. Otherwise the section reads as stated.

(3) No. According to the former Commissioner of Titles and the Courts, Mr ter Horst is not the "proper party". It is the Commissioner of Titles and not the Minister for Lands who must make the relevant decision under section 76 of the *Transfer of Land Act 1893*. Accordingly, the Minister for Lands cannot take action to reinstate Mr ter Horst as the registered proprietor of Lot 17 Moran Street.

(4) See (3).

TOURISM - TOURIST BUREAUS

Funding

937. Hon TOM STEPHENS to the Minister for Tourism:

(1) What plans, if any, does the Government have to increase the funding available for tourist bureaus, particularly for staffing and the provision of information services?

(2) What particular plans does the Government have to help develop the tourism product and infrastructure in the North West of Western Australia?

Hon N.F. MOORE replied:

(1) In the 1996/97 financial year, the Board of Commissioners agreed to phase out the Regional Tourism Policy 1994 - 1997 and replace this with a new fee-for-service based contractual arrangement between the WATC and the State's 10 Regional Tourism Associations (RTA).

In making this change, the Tourism Commission was able to increase the funds available for direct allocation to the RTAs by 35.5 per cent over the 3 year period to 1998/99. Under the new fee-for-service based arrangements, it is the RTAs that are responsible for providing financial support to the tourist bureau.

The Boards of the RTAs will make decisions as to what extent and which tourist bureaux in each area will be supported. Local Governments and tour operators also have a key role to play in providing financial support for the operation of tourist bureaux, as they derive immediate benefit from the sales and information dissemination activities of the tourist bureaux.

The WATC will work with the RTAs to assist in the development of strategies that will see tourist bureaux become more focused on the generation of sales for tour operators in each region as opposed to disseminators of information and sellers of souvenirs.

The first step in providing assistance in this regard is demonstrated by the commitment the WATC has made to the development of a statewide database, that will be accessible to, and provide linkages for, each of the key tourist bureaux.

The WATC is bearing all the development costs of this initiative and in some cases, RTAs are taking the initiative to ensure their tourist bureaux have the necessary computer equipment in place such that the system can be implemented shortly after it is developed.

(2) I would advise that current initiatives undertaken by the Government to assist tourism product and infrastructure in the north west include a $6M Tourism Development Fund to be funded over four years. $500,000 has also been allocated over three years for the implementation of the Nature Based Tourism Strategy. Next year, $960,000 will be allocated over three years for an Investment Attraction Fund. All allocations will be administered by the Western Australian Tourism Commission.

TOURISM - BROOME

Tourism House

938. Hon TOM STEPHENS to the Minister for Tourism:

(1) What steps is the State Government taking to assist in the establishment of a "tourism house" for Broome?

(2) Will the State Government assist in ensuring support for a funding application to the national tourism development program?

(3) If not, why not?

Hon N.F. MOORE replied:

(1) My understanding is this issue is still a local authority matter. The specific location is yet to be confirmed and funding is still to be allocated.

(2) The application will be considered by this Government when received.

(3) Not applicable.

TOURISM - BROOME

Improvement of Flight Accessibility

940. Hon TOM STEPHENS to the Minister for Tourism:

What plans, if any, does the Government have to improve the flight accessibility to Broome for interstate tourists, particularly those from the East Coast of Australia?

Hon N.F. MOORE replied:

At present, there are in excess of 60 flights a week detailed in the timetables of both Qantas and Ansett for travel from the east coast to Broome. The majority of these flights are from the key markets of Sydney and Melbourne. While the Western Australian Tourism Commission meets regularly with key transport providers to discuss seating capacity, the decision of airlines to increase or decrease capacity is ultimately based on the commercial reality of operating the services.

RAILWAYS - WESTRAIL

Locomotive Drivers - Training

947. Hon BOB THOMAS to the Minister for Transport:

(1) Has Westrail called for tenders for 12 locomotive drivers for the West Merredin and Kalgoorlie depots?

(2) When did Westrail last conduct a trainee school for new drivers?

(3) What plans does Westrail have to train new loco drivers in the future?

Hon E.J. CHARLTON replied:

(1) No. I presume the member is referring to an advertisement in The West Australian on October 11, 1997 by Westrail seeking an unspecified number of locomotive operators for its depots at Avon, Kalgoorlie and West Merredin.

(2) A training school is currently in progress and will conclude in January 1998. The previous training school conducted was concluded in December 1996.

(3) Locomotive operator training is carried out on an on-going basis to cater for the requirements of new intakes. The next training school is scheduled to commence on November 10, 1997.

MIDLAND WORKSHOPS - LEASES

Area and Purpose

949. Hon BOB THOMAS to the Leader of the House representing the Premier:

(1) Which persons or organisations have leased space at the Midland Workshops?

(2) What is the size of the area leased in each case?

(3) For what purpose is each space being used?

Hon N.F. MOORE replied:

(1) (a) Midland TAFE - Chief Mechanical Engineers Building
(b) Edith Cowan University - Laboratory
(c) Australian Railway Historic Society - Block 1 (part)
(d) Machinery Preservation Society - Power House / Copper Shop
(e) Barron Films - Railway Institute Building (part)

(2) (a) 800 m^2 approximately
(b) 300 m^2 approximately
(c) 7200 m^2 approximately
(d) 2000 m^2 approximately
(e) 200 m^2 approximately

(3) (a) Tertiary Education
(b) Tertiary Education
(c) Heritage Train Storage
(d) Heritage Machinery Maintenance & Club display
(e) Film production

GOVERNMENT CONTRACTS - EXCESS OF $10M

Number and Details

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

(1) How many contracts over $10m have been awarded by any Government departments or agencies within the Premier's portfolios since February 1993?

(2) Will the Premier list those contracts?

(3) What was the value of each of these respective contracts?

(4) What is the duration of each of these contracts?

(5) Who is the contract entered into with?

Hon N.F. MOORE replied:

(1) None.

(2)-(5) Not applicable.

GOVERNMENT CONTRACTS - EXCESS OF $10M

Number and Details

961. Hon LJILJANNA RAVLICH to the Minister for Transport representing the Minister for Local Government:

(1) How many contracts over $10m have been awarded by any Government departments or agencies within the Minister for Local Government's portfolios since February 1993?

(2) Will the Minister list those contracts?

(3) What was the value of each of these respective contracts?

(4) What is the duration of each of these contracts?

(5) Who is the contract entered into with?

Hon E.J. CHARLTON replied:

With respect to the Department of Local Government:

(1) None

(2)-(5) Not applicable.

With respect to the Keep Australia Beautiful Council:

(1) None

(2)-(5) Not applicable.

With respect to the Fremantle Cemetery Board:

(1) None

(2)-(5) Not applicable.

With respect to the Metropolitan Cemetery Board:

(1) None

(2)-(5) Not applicable.

EMPLOYMENT AND TRAINING - TRAINING

Hospitality Industry - Exmouth

984. Hon TOM STEPHENS to the Leader of the House representing the Minister for Employment and Training:

(1) What are the assessed current and projected training needs of the hospitality industry in the Exmouth region?

(2) Who has made that assessment?

(3) When was that assessment made?

(4) What agencies, programs or services are in place or proposed to meet these needs?

(5) How many persons are currently undergoing training for the hospitality industry in this region?

Hon N.F. MOORE replied:

(1) A *Gascoyne Industry Training Needs 1995-2005* has been conducted for the Gascoyne region, which includes Carnarvon, Exmouth, Coral Bay and Monkey Mia. The project identified the following priorities in relation to hospitality and tourism:

- the development and implementation of short-term courses to cover the basic requirements of the industry (ie bar work, waiting and table service, cleaning, yard work, kitchen hand, retail and counter work, laundry service and reception);
- the promotion of apprenticeship training in the food and beverage industry;
- the implementation of a TAFE Certificate in Tourism and Hospitality;
- the continuing and growing need for open and flexible learning systems;
- small business management courses.

There is also a Gascoyne Campus Industry Advisory Committee which regularly provides Geraldton Regional College of TAFE with advice on industry training needs.

(2) The *Gascoyne Industry Training Needs 1995-2005* was undertaken by Impact Organisation, as a joint initiative of the Gascoyne Labour Market Committee and Geraldton Regional College of TAFE, and coordinated by the Gascoyne Development Commission.

(3) May 1996.

(4) The report recommends that a Gascoyne Industry Training Network be established, under the auspices of the Gascoyne Labour Market Committee, to ensure that local tourism/hospitality opportunities are acted upon. Other recommendations in the report relate to the Gascoyne Labour Market Committee, Geraldton Regional College of TAFE or other training providers (eg Skillshares).

(5) TAFE tourism and hospitality enrolments at the Exmouth TAFE Centre and Gascoyne Regional Campus at Carnarvon are as follows:

Campus/Centre	Semester 1	Semester 2
Exmouth Centre		
1996	9	6
1997	-	Not available
Carnarvon Campus		
1996	7	10
1997	1	10

In addition to the above, in 1996 the following number of persons residing in the Gascoyne region accessed hospitality/tourism training through other TAFE Colleges: semester 1 (7 persons), semester 2 (13 persons). Figures are not available for private training providers.

HOMOSEXUALITY - STATISTICS

Source

1004. Hon GREG SMITH to Hon Helen Hodgson:

In relation to Order of the Day No 42 of Wednesday, October 15, 1997, the member has Hon Helen Hodgson has quoted that research indicates the following -

That between 7 and 13 per cent of the population are gay or lesbian;

by the age of 13 years, most homosexual youth are aware of their attraction to same sex partners; and

by the age of 14 years, most lesbians are aware of their attraction to same sex partners.

Can the member advise -

(1) Where did the statistics come from?

(2) How up to date are they?

Hon HELEN HODGSON replied:

(1)-(2) The first statistic was accepted by the United States District Court as a finding of fact after expert testimony in *Equality Foundation of Cincinnati v The City of Cincinnati.* (1984).

The second statistic is an average supported by a number of studies: Reiche & Dannecker (1977). Lehe (1978), Kooden et al (1979), Jandy & Darsey (1981), McDonald (1982), Schafer (1976), Ross (1989).

The final statistic was gathered from the same sources.

POLICE - BRENNAN CASE

Acting Inspector Thoy - Response by Director of Public Prosecutions

1012. Hon MARK NEVILL to the Attorney General:

Further to my question on notice 3253 of June 29, 1995 and 3630 of September 5, 1995, why didn't the Director of Public Prosecutions respond to acting Inspector R M Thoy?

(1) Will the Attorney General now provide a prompt answer?

(2) If not, why not?

Hon PETER FOSS replied:

(1)-(2) Question on Notice 3253 of 29 June 1995 was answered on 22 August 1995.

Question on Notice 3630 of 5 September 1995 was answered on 15 November 1995.

MINING - FIMISTON TAILINGS STORAGE FACILITY

Hydro Geological Investigation

1032. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

I refer to the answer to questions on notice 893 of October 22, 1996 and 657 of August 19, 1997 -

(1) Can the Minister for the Environment state what the mechanisms affecting groundwater levels are on P26/1848 and P26/1858?

(2) If not, why not?

(3) Can the Minister state which specific regulatory agencies are involved and specifically what each agency is involved with in managing groundwater levels?

(4) If not, why not?

(5) Can the Minister state the date or dates that about 4 000 cubic metres of groundwater are being recovered and the date or dates when 30 recovery bores were put into operation?

(6) If not, why not?

(7) Can the Minister state on what date or dates and in what locations the 8 kilometres of cut-off trench was constructed?

(8) If not, why not?

Hon MAX EVANS replied:

(1) I understand that the information provided in KCGM's hydrogeological report (provided to Water and Rivers Commission by KCGM to meet the requirements of Groundwater Well Licence number 55919)

describes mechanisms affecting groundwater. Accordingly, as previously suggested, this report may be available through the Water and Rivers Commission.

(2) Not applicable.

(3) I understand that water resource management (eg. groundwater levels) is the responsibility of the Water and Rivers Commission.

(4) Not applicable.

(5) By May 1997 a rate of groundwater recovery totalling 4000 cubic metres per day was achieved from a total of 34 bores and trenches.

(6) Not applicable.

(7) The following table shows the location and dates for construction of the cut-off trenches:

Location (trench name)	Stage	Completion Date
Oroya	1	Feb 93
Oroya	2	Nov 94
Fimiston	II	Oct 94
Fimiston I	North	June 94
Fimiston I	South	May 95
Fimiston II South	1	May 95
Fimiston II North	2	July 95
Fimiston II South		Sept 95

(8) Not applicable.

MINING - OPTIMUM RESOURCES

Investigations

1033. Hon GIZ WATSON to the Minister for Mines:

I refer to a file note to the Minister from the Acting Director General titled "Notice of Intention to Forfeit General Purpose Lease 26/8 held by Homestake Gold of Australia Limited and Kalgoorlie Lake View Pty Ltd and Mining Lease 26/86 held by I.M. Ladyman and BTM Investments Pty Ltd and both situated at Trafalgar in the East Coolgardie Mineral Field" -

(1) Can the Minister state on what specific dates the "earlier investigations", as stated in the above file note, had shown that Optimum Resources had been "inconvenienced"?

(2) If not, why not?

(3) Can the Minister state how, and in what way, the Department of Minerals and Energy had determined with "earlier investigations" Optimum Resources had been "inconvenienced" by the wetness of the ground on the prospecting licences it holds?

(4) If not, why not?

(5) Can the Minister state how Optimum Resources had been "inconvenienced by the wetness of the ground on the prospecting licences it holds . . ."?

(6) If not, why not?

Hon N.F. MOORE replied:

(1) The earlier 'investigations' referred to included site visits on 6 January 1993, 11 January 1993, 5 May 1993 and 5 August 1993.

(2) Not applicable.

(3) The apparent "inconvenience" to Optimum Resources referred to was a conclusion reached based on -

(a) the existence of boggy ground conditions affecting approximately 8% of Prospecting Licence 26/1848 along its lower south west boundary and the degree of infiltration of the water seepage into that licence; and

(b) the short-term nature of its effect, due to drying conditions and remedial steps to be taken by KCGM.

(4) Not applicable.

(5) No. The perception was based on observations alluded to in answer (3).

(6) Not applicable.

SHIPPING - *PINE TRUST*

Grounding - Ownership

1034. Hon TOM STEPHENS to the Minister for Transport:

With regard to the grounding of the *Pine Trust* near Denham -

(1) Can the Minister confirm that this vessel is owned by a Japanese, Sydney based company, and is flying under the Panamanian flag?

(2) Is this the same firm which owned the *Sanko Harvest*, which ran aground near Esperance in 1992, discharging 500 tonnes of bunker oil and 30 000 tonnes of fertiliser into the ocean?

(3) Given this is the case is this vessel another of the so-called "Ships of Shame" flying under a foreign flag to avoid Australian shipping regulations?

(4) What actions does the Government intend to take to -

(a) tighten restrictions on this sort of shipping practice; and

(b) investigate the actions of Sanko Kessen in this matter?

Hon E.J. CHARLTON replied:

(1) The Australian Maritime Safety Authority (AMSA) has advised that the vessel *Pine Trust* is owned by World Trust Maritime Cooperation. The vessel is bare boat chartered to Grand Sum Enterprises and is on a long term charter to Sanko. The vessel is managed by Eastern Shipping Company of Japan. The vessel is under the Panamanian flag.

(2) No.

(3) "Ships of Shame" refers to safety issues on sub standard ships. There is at this time, nothing to indicate that this vessel was in any way unsafe or substandard. Panama is a signatory to port state control memorandum of understanding and the vessel could be the subject of a port state control inspection by officials from the Australian Maritime Safety Authority in any Australian port.

(4) (a) The Western Australian State Government has no power to restrict international shipping. This is the responsibility of the Federal Government and the Australian Maritime Safety Authority.

(b) Sanko Kessen (Australia) Pty Ltd is an agency representative company based in Sydney. The ship's agents were Patrick Sleigh Shipping Agencies Fremantle. Full cooperation was provided by the agency to all government authorities dealing with the incident.

SHIPPING - CREW FATIGUE

Authority to Stop a Ship Sailing

1060. Hon MARK NEVILL to the Minister for Transport:

Do harbour masters or officers of the Department of Transport have authority to stop a ship sailing because they believe the ship's master or crew are suffering from fatigue?

Hon E.J. CHARLTON replied:

Neither harbour masters nor officers of Transport have such authority under current Western Australian legislation.

OFFICE OF THE AUDITOR GENERAL, ST JOHN AMBULANCE ASSOCIATION AND STATE EMERGENCY SERVICES - PRIVATISATION

1070. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Public Sector Management:

Does the Government intend to follow the example of the Victorian Government in privatising the Office of the Auditor General, St John of God Ambulance and State Emergency Services?

Hon MAX EVANS replied:

No.

It should be noted that the St John Ambulance Australia - Western Australian Ambulance Service is already a private sector, non-profit organisation which is widely respected for its efficiency and quality of service.

CORRUPTION - ANTI-CORRUPTION COMMISSION

Police - Allegations

1076. Hon N.D. GRIFFITHS to the Leader of the House representing the Premier:

With respect to the answer provided to question on notice 619 of 1997 -

(1) Were any of the matters referred by the Anti-Corruption Commission to the police for further action other than "formally"?

(2) If so, how many and in what manner?

Hon N.F. MOORE replied:

The Anti-Corruption Commission has provided the following information:

(1) No.

(2) Not applicable.

MINISTRY OF JUSTICE - REMANDS IN CUSTODY

Names and Charges

1077. Hon N.D. GRIFFITHS to the Attorney General:

With respect to question on notice 894 of 1997 and the answer provided in the supplementary notice paper on October 14, 1997 -

(1) Who were the unsentenced prisoners referred to as being in custody for 18 months or more?

(2) In each case when did they commence to be in custody?

(3) In each case what charges were they facing?

(4) In each case when were the charges disposed of and what was the result?

(5) Which of them are still in custody and unsentenced and what is the status of such matters?

Hon PETER FOSS replied:

(1) In the information provided to question 894 of September 16, 1997, note 2 explained that there are a number of cases where prisoners had been sentenced but on completion of the sentence the person continued to be detained as unsentenced due to pending deportation or remained as a remandee due to pending charges.

The data base would identify these people as unsentenced as at the census date but their commencement date is reported as the most recent reception into the prison system. Hence a prisoner, whose sentence status had changed but was not discharged and remained in prison as an unsentenced prisoner, would have an entry date commencing with the previous remand or sentence commencement.

This occurred for 11 of the 35 cases provided for that parliamentary question where the length of incarceration was found to be 18 months or more. Since that time data integrity checks have identified a further case as at July 31, 1997 (correction of data entry error).

[See Paper No 1010].

It is Government policy not to identify individuals in custody. The file number identifies distinct individuals. The same person may appear in more than one census date due to continuing custody. [See Paper No 1010].

(2) [See Paper No 1010].

(3) [See Paper No 1010]. This details the most serious charge being faced only. To provide more details, an exhaustive manual search is needed.

(4) [See Paper No 1010]. It must be noted that the most serious offence for which convicted may be different from the most serious remand charge recorded on the prison database.

(5) [See Paper No 1010]. The actual status of the matters still outstanding would need exhaustive examination of Court records.

CORRUPTION - ANTI-CORRUPTION COMMISSION

Police - Formal Reports

1078. Hon N.D. GRIFFITHS to the Leader of the House representing the Premier:

With respect to the answer provided to question on notice 622 of 1997 -

(1) With respect to each matter when did the initiation on the part of the Anti-Corruption Commission take place?

(2) When was a formal report received?

Hon N.F. MOORE replied:

The Anti-Corruption Commission has provided the following information:

(1) Both matters - 20 August 1997.

(2) Both matters - 21 August 1997.

LIQUOR - LICENCES

Metropolitan and Country Areas

1080. Hon NORM KELLY to the Minister for Racing and Gaming:

(1) How many liquor store licences currently exist in Western Australia?

(2) How many of these are in the metropolitan area?

(3) How many of these are in country areas?

(4) Who are the five largest individuals or companies holding liquor licences?

(5) How many licences do each of these five hold?

(6) How many new liquor store licences were granted in -

(a) 1992;
(b) 1993;
(c) 1994;
(d) 1995;
(e) 1996; and
(f) so far in 1997?

Hon MAX EVANS replied:

(1) 407.

(2) 232.

(3) 175.

(4)-(5)

	Liquor Store Licences as at 22 October 1997
Liquorland Australia Pty Ltd	62
Woolworths (WA) Pty Ltd	13
Austie Nominees Pty Ltd & Dileum Pty Ltd (Liberty Liquors)	13
Charlie Carters Pty Ltd	12
Action Food Barns (WA) Ltd	3

(6) Each calendar year.

(a)	1992	Not available
(b)	1993	7

(c)	1994	17
(d)	1995	8
(e)	1996	7
(f)	1997	15 *

* NOTE In response to a previous Question Without Notice from the Hon Member, it was stated that 17 new liquor store licences had been granted. This figure included 15 new licences plus 2 relocation of licences.

HOMOSEXUALITY - STATISTICS

Source

1089. Hon GREG SMITH to Hon Helen Hodgson:

In relation to Order of the Day No 48 of Tuesday, October 21, 1997 the member has stated that 33 per cent of men have had a homosexual experience -

Where did these statistics come from?

Hon HELEN HODGSON replied:

The statistic came from a 1948 study conducted by Kinsey, Pomeroy and Martin titled Sexual Behaviour in the Human Male.

MINISTRY OF JUSTICE - SANTA MARIA SITE

Future Use

1091. Hon KEN TRAVERS to the Minister for Justice:

(1) Has the Ministry of Justice had any discussions regarding the use of the Santa Maria site near Gnangara?

(2) If yes, what was the nature of those discussions?

(3) What uses of the site were considered in the discussion?

Hon PETER FOSS replied:

(1)-(3) This matter is the subject of Cabinet deliberations and I am unable to comment.

MINING - FLARED GAS

Offshore Vessels - Reduction

1097. Hon J.A. SCOTT to the Minister for Mines:

(1) Has the Department of Minerals and Energy made any attempt to reduce the levels of flared gas from offshore oil and gas production and exploration vessels?

(2) If so, what action have they taken?

(3) Has the Department of Minerals and Energy given any instructions or advice to Woodside Petroleum regarding the flaring off from the Cossack Pioneer?

(4) If yes -

(a) what was this instruction or advice; and
(b) on what occasions (dates) did it give this advice?

(5) What is the total amount of gas estimated to be flared off in Western Australia in -

(a) 1995/96; and
(b) 1996/97?

Hon N.F. MOORE replied:

(1) Yes.

(2) Following the announcement of the gas flaring policy in 1993 by the Minister for Resources Development, the State's petroleum legislation was amended in 1994 to enable gas to be reinjected into underground reservoirs for storage and subsequent recovery. When gas flaring is approved it is monitored by the Department of Minerals and Energy (DME) to ensure the volumes of flared gas do not exceed that stipulated in the approval.

(3) Yes.

(4) (a) Woodside Offshore Petroleum was given approval to flare gas from the Wanaea oil field by way of the Cossack Pioneer FPSO, in March 1993. This approval was in respect to commissioning and various other aspects of operations in which gas flaring is necessary. The approval was on the understanding that every reasonable effort would be made to limit flaring.

(b) Initial approval to flare was given on 2 March 1993. Production (and consequential flaring) commenced on 17 November 1995. DME has been kept abreast of flaring levels by way of monthly production meetings with Woodside. The company has experienced significant disruption to the commissioning process for the Cossack Pioneer that necessitated a continuation of flaring with DME's concurrence.

(5) (a) 1995-96 - 842 million m^3 which represents 4.3% of total gas production

(b) 1996-97 - 662 million m^3 which represents 3.0% of total gas production

TOURISM - AEROBICA - THE EVENT

Ministry of Sport and Recreation

1098. Hon KEN TRAVERS to the Minister for Sport and Recreation:

(1) Were any employees of the Ministry of Sport and Recreation involved in the organisation/administration of the World Aerobica Event held recently in Perth?

(2) If yes, what were their names and what tasks did they carry out?

Hon N.F. MOORE replied:

(1) Yes, two.

(2) Graham Brimage was a member of the Advisory Committee.

Susan Hamilton-Quay undertook a professional development placement with the Aerobica office to gain experience in event/competition management and protocol. She assisted the event organisers in conducting the World Championships in Sports Aerobics. The placement comprised 97.5 hours, plus Ms Hamilton-Quay committed 37.5 hours of her personal annual leave time.

MINING - FIMISTON TAILINGS STORAGE FACILITY

Reports

1101. Hon GIZ WATSON to the Minister for Mines:

I refer to a letter dated May 19, 1997 addressed to Mr. Bob Crew, Chief Executive Officer, Kalgoorlie Consolidated Gold Mines Pty Ltd, ("KCGM") signed by JM Torlach, State Mining Engineer -

(1) Part of this letter states "On the basis of the evidence provided in those reports, it appears to me that there has been identified a real and substantial potential for overtopping and partial failure of the Fimiston II tailings store facility, resulting in effluent material impacting on the embankment for the Australian National Railways line, and moreover, the real possibility of the general public being directly affected". Can the Minister provide me with a complete copy of the "reports"?

(2) If not, why not?

(3) Can the Minister for Mines state why the State Mining Engineer, Mr J Torlach, believes "...that there has been a real and substantial potential for overtopping and partial failure of the Fimiston II tailings storage facility, resulting in effluent material impacting on the embankment for the Australian National Railways line, and moreover, the real possibility of the general public being directly affected"?

(4) If not, why not?

(5) Part of the letter states "The reported risk in the revised Coffey Study indicates a public mortality probability of 1 to 50 000 for your tailings installation as it is currently configured and operated. This number is obviously unacceptable to the State Government and it is most important that you address the three points raised above, and advise the Department as soon as practicable of your endeavours to remedy this unacceptable situation. "Can the Minister explain why "This number is obviously unacceptable to the State Government"?

(6) If not, why not?

(7) Can the Minister state why the department considers, in relation to the "three points raised", that this is an "unacceptable situation"?

(8) If not, why not?

(9) Part of the letter states "The history of mining is littered with the wrecks of tailings and waste impoundments, and neither the industry nor the regulatory authority can tolerate any identified unacceptable risk". Can the Minister for Mines state why "neither the industry nor the regulatory authority can tolerate any identified unacceptable risk"?

(10) If not, why not?

Hon N.F. MOORE replied:

(1) The Department has only one copy of the reports which comprise over 450 pages. I am advised that KCGM, which commissioned the reports, will make a copy available to the Hon Member upon request.

(2) Not applicable.

(3) For the reasons stated in the first portion of the partially quoted sentence, namely "on the basis of the evidence provided in those reports".

(4) Not applicable.

(5) The public mortality probability in respect of industrial installations normally considered acceptable in Western Australia is 1 in 1 000 000. Where public mortality probabilities are above this the State Government requires appropriate action to be taken.

(6) Not applicable.

(7) The Department required action to be taken on the three points raised to rectify a situation where the estimated public mortality probability was above that normally accepted.

(8) Not applicable.

(9) The State Government requires identified unacceptable risks to be dealt with in the appropriate manner. To do otherwise would be unconscionable.

(10) Not applicable.

The issue addressed by the member's question is a complex and highly technical one. As stated in my response to the member's earlier question (question on notice 924) on the same issue, Departmental officers can be made available to fully brief the member upon request.

QUESTIONS WITHOUT NOTICE

CAPITAL PUNISHMENT - INTRODUCTION

963. Hon N.D. GRIFFITHS to the Attorney General:

Does the Government oppose the introduction of the death penalty in Western Australia?

Hon PETER FOSS replied:

The Government has not considered the question of imposing the death penalty.

POLICE - SENATOR LIGHTFOOT

Speeding Charge - Complaint Against Patrol Officer

964. Hon N.D. GRIFFITHS to the Attorney General representing the Minister for Police:

I refer to the complaint lodged by now Senator Ross Lightfoot in November 1995 against a patrol officer who had issued him with a speeding ticket.

(1) What was the nature and basis of the complaint?

(2) How long did the police internal investigation take to complete; how many police man-hours were involved; and what was the estimated cost of the inquiry?

(3) Did the investigation require travel by either the investigation officers or witnesses?

(4) If so, what travel was involved and at what cost?

(5) What was the outcome of the investigation?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Senator Lightfoot alleged that the officer's manner was one of intimidation, after being stopped regarding a traffic offence.

(2) The police internal investigation commenced on 8 December 1995 and concluded on 23 February 1996. The delay was a result of the complainant being overseas and unable to be interviewed. I think the year given in this answer might be incorrect, but I will read it as I have it. A total of 10 hours was involved at an estimated cost of $250.

(3)-(4) No travel costs were incurred during the investigation of the complaint.

(5) The complaint was dealt with under the minor complaints procedure, but could not be conciliated. In accordance with the procedures policy, a copy of the police internal investigations complaint form was forwarded by mail to Mr Lightfoot on 23 February 1997. I query the dates because the second part of the answer refers to 23 February 1996, not 1997. I shall raise my concern and check the dates.

[See paper No 1015.]

PORTS AND HARBOURS - KWINANA

Native Title Claims

965. Hon HELEN HODGSON to the Minister for Transport:

(1) With reference to the proposed privately owned port to be located at Kwinana, are any native title claims lodged over any part of the land or sea affected by the proposal?

(2) If so, has the Minister or the Department of Transport entered into any consultation with the claimants or their representatives about the proposed development?

(3) Has the Minister or the department entered into any consultation with members of the local Aboriginal community or their representatives about the proposed development?

(4) Will the Government inform private operators who express their interest in the proposed development of their responsibilities and obligations in relation to native title?

Hon E.J. CHARLTON replied:

(1) Yes.

(2)-(3) No.

(4) Yes.

PORTS AND HARBOURS - DAMPIER PORT AUTHORITY

Privatisation

966. Hon TOM STEPHENS to the Minister for Transport:

(1) Have tenders been called for the privatisation of the Dampier Port Authority?

(2) If so, when?

(3) Does the call for tenders specifically require confidentiality of prices tendered?

(4) Is the Government intending to keep confidential details of how many tenders were received and the price tendered in each case?

(5) What guarantee does the public of Western Australia have that the Government will, in fact, opt for the tender in the best financial interest of the taxpayers of this State?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) No.

(2)-(5) Not applicable.

PORTS AND HARBOURS - KWINANA

Privately Owned - Union Access

967. Hon J.A. SCOTT to the Minister for Transport:

The Minister has announced he is seeking expressions of interest to build a privately owned non-unionised port at Kwinana.

(1) What is the estimated capacity of this port?

(2) Will further stages of the port be built?

(3) Will it be solely a container port?

(4) Will the State Government put any state funds into the planning and/or construction of the port?

(5) If so, how much?

(6) How can the Minister ensure that no unions or unionists will have access to work on the site?

(7) Has the Government or the Minister or the Department of Transport had contact with Mr Len Buckeridge about a new port proposal?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The question is incorrectly presented. It is important that I set the record straight that my announcement made no mention of seeking a non-unionised port at Kwinana.

(1)-(3) This will not be known until proposals are received from potential port operators.

(4)-(5) No.

(6) Unions and unionists will not be banned from the site.

(7) No.

HOMESWEST - BROOME

Maintenance Contract

Hon TOM STEPHENS to the Minister representing the Minister for Housing:

(1) Has Homeswest awarded the two year zone maintenance contract, which is to commence on 1 January 1998, for the Broome area?

(2) If so, to whom was the tender awarded?

(3) What price was tendered by the successful tenderer?

(4) Was it the lowest tender?

(5) If not, for what reason was the contract awarded to a higher tenderer?

(6) What number of alternative tenders were received and what price was tendered in each case?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) Tenders were awarded as follows: General repairs and painting, M. Craven and J. Vagg; plumbing and gas repairs, Wedgefield Plumbing; electrical repairs, Kimberley Electrical Service; glazing repairs, M. Craven and J. Vagg; fencing repairs, KTHS Property maintenance; cleaning, Cable Beach Cleaning Service; and pest control, Broome Pest Control.

(3) The prices tendered by the successful tenderer were above Homeswest's scheduled rates as follows: 65 per cent for general repairs and painting; 18 per cent for plumbing and gas repairs; 66 per cent for glazing repairs; 72 per cent for fencing repairs; 40 per cent for cleaning; and 75 per cent for pest control. The price tendered for electrical repairs was 5 per cent below Homeswest's scheduled rates.

(4) Yes in all cases except general repairs and painting.

(5) Tenders are evaluated on the tender price, current work force employed, capacity to complete the work, location of business premises-workshop, and past performance. Only 1 per cent separated the two lowest tenders; that is, one was 65 per cent above Homeswest's scheduled rates and the other was 64 per cent above them. The second lowest tenderer, M. Craven and J. Vagg, has provided excellent service in the current contract and was evaluated as the best value for money when comparing both tenderers.

(6) For general repairs and painting, two alternative tenders were received at 64 per cent and 72 per cent above Homeswest's scheduled rates. For plumbing and gas repairs, one alternative tender was received at 25 per cent above Homeswest's scheduled rates. For electrical repairs, two alternative tenders were received at par and 12 per cent above Homeswest's scheduled rates. For glazing repairs, there were no alternative tenderers. For fencing repairs, there was one alternative tenderer at 75 per cent above Homeswest's scheduled rates. There were no alternative tenderers for cleaning and there was one alternative tenderer for pest control at 150 per cent above Homeswest's scheduled rates.

GRIFFIN VENTURE INCIDENT - INVESTIGATION

968. Hon GIZ WATSON to the Minister for Mines:

(1) How many accidents or incidents occurred in the past week on the BHP production platform, *Griffin Venture*?

(2) If any, what were the accidents or incidents?

(3) Is the Department of Minerals and Energy investigating any of these accidents or incidents?

(4) What action is being taken in relation to these accidents or incidents, being cognisant of the previous problems with the *Griffin Venture*?

Hon N.F. MOORE replied:

I am aware that an incident occurred on board the *Griffin Venture*. I am not an expert on what has taken place, but BHP Petroleum Pty Ltd advises that the *Griffin Venture*, a floating production storage and offtake vessel located 70 kilometres north west of Onslow, is safe and secure.

The fire associated with the incident on board on the morning of 10 November was extinguished shortly after the incident. Twenty-nine crew remained on board the vessel, while nine crew members not essential for operations were flown to Perth. Two employees suffered from shock and another has an injured hand. None required hospitalisation; all are in a satisfactory condition.

Preliminary assessment suggests damage to at least two of the five electrical generators and electric cabling located in the engine room. Initial investigation indicates that the incident was caused by a mechanical problem associated with one of the turbines.

The incident was not related to the hydrocarbon process and storage systems of the vessel. BHP Petroleum will work with state and federal authorities to determine the exact cause of the incident. A senior team has been assembled in Perth, led by Michael Baugh, the President and Group General Manager of BHP's Australia-Asia Region, to manage the repair and investigation processes.

Specialist staff boarded the vessel yesterday to commence a detailed assessment of the damage. Until this work is completed it is not possible to determine when the *Griffin Venture* will be brought back to production. Oil production before the *Griffin Vessel* was shut down averaged approximately 60 000 barrels per day over the past month. No oil has been spilled associated with the incident and there has been no pollution. BHP said that the offshore crew responded to the incident in exemplary fashion, following established safety systems and procedures and effectively

implementing the vessel's emergency equipment. The Department of Minerals and Energy will be involved in investigating the incident.

FORESTS AND FORESTRY - REGIONAL FOREST AGREEMENT

Research Projects

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

(1) Of the 38 research projects approved by the Commonwealth-State Regional Forest Agreement Steering Committee, how many have been undertaken in whole or in part by the Department of Conservation and Land Management?

(2) Of the overall budget allocated to the 38 research projects, how much money has been allocated to CALM?

(3) What is the total budget allocated by the State and Commonwealth Governments to advertising and publicity of the RFA?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The answer to this question requires considerable research. I therefore request the member put it on notice to allow preparation of a response.

COMMERCE AND TRADE - AUSTRALIAN MADE PRODUCTS

Promotion by State Government

970. Hon RAY HALLIGAN to the Leader of the House representing the Minister for Commerce and Trade:

(1) Does the State Government promote the buying of Australian made products?

(2) If yes, in what way?

(3) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The Department of Commerce and Trade is responsible for the "Birthmark" campaign which promotes Western Australian products, services and companies.

Programs carried out by the Small Business Development Corporation to support the purchase of local goods and services include -

(a) the regional preference scheme - local regional manufacturers and suppliers of goods and certain services are afforded a 10 per cent preference in evaluation on bids and tenders for government contracts in regional areas;

(b) buying wisely policy - the State Supply Commission has released a buying wisely policy which directs all government departments and agencies to consider the opportunities for small business and local industry development when making purchasing decisions.

Where the price and quality of a local product is comparable to imported items, there is a presumption that government agencies will give favourable consideration to the local supplier;

(c) meet the buyer - the Government supports the meet the buyer program, which provides opportunities for local suppliers and manufacturers to meet government purchasing personnel and to promote their products and services;

(d) the State Government is a signatory to the government procurement agreement, which is a commonwealth-state agreement. Under this agreement state agencies apply a preference of 10 per cent for goods made in Australia; and

(e) the Government, through the Department of Commerce and Trade, supports the Birthmark campaign, which promotes Western Australian products, services and companies.

(3) Not applicable.

TOURISM - BRAND WA ADVERTISING CAMPAIGN

Marketforce Advertising - Contract

971. Hon KEN TRAVERS to the Minister for Tourism:

In relation to the Minister's answer to my Question Without Notice 929 seeking information on the role the Premier or any of his staff may have played in the awarding of the tourism advertising contract to Marketforce, has the Minister received this information and will he present it to the House?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

Of those remaining, one commissioner and the rest of the selection panel have been contacted and have advised that no such discussions took place. Unfortunately, one commissioner is still overseas and is unable to be contacted at this time.

LEGAL AID - COMMISSION

Bunbury - Mr David Smith's Appointment

972. Hon DERRICK TOMLINSON to the Attorney General:

(1) Has David Smith, the previous member for Mitchell, been offered a position with the Legal Aid Commission?

(2) If so, is this position as a junior law officer with the Legal Aid Office in Bunbury?

(3) How many candidates were there for the position and how did their qualifications for the position compare with those of Mr Smith?

(4) Was this appointment as a result of a vacancy or is it a new position?

(5) In which area of the law will Mr Smith be expected to work?

(6) What experience was required for the position in question?

(7) How long has it been since Mr Smith practised law?

Hon PETER FOSS replied:

I understand that Mr Smith has been given a position in Bunbury, but I am unable to answer any of the other questions in detail and I ask that the question be put on notice.

MINISTRY OF PREMIER AND CABINET - MR JOHN CLARKE

Employment in Native Title Unit

973. Hon CHERYL DAVENPORT to the Leader of the House representing the Premier:

(1) What is the nature of John Clarke's employment with the Premier's Department's native title unit?

(2) Is Mr Clarke employed through a company or as an individual?

(3) If through a company, what is the name of that company?

(4) What is the term of his contract and what is his remuneration?

(5) On what dates has Mr Clarke travelled for the Western Australian State Government and what duties did he perform during those travels?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I find this question interesting in view of the reaction by members opposite to the previous question.

(1) Mr Clarke is on indefinite secondment to the Ministry of the Premier and Cabinet from the Department of Minerals and Energy.

(2) Mr Clarke is a permanent public servant and therefore employed as an individual.

(3) Not applicable.

(4) Mr Clarke's employment is subject to the policy office's workplace agreement and he is remunerated as a special 4 officer.

(5) Mr Clarke is required to travel extensively in performing his duties as indicated in the quarterly return for travel presented to the Office of State Administration.

OFFICE OF ENERGY - AUSTRALIAN COMPETITION AND CONSUMER COMMISSION SUBMISSION

North West Shelf Joint Gas Marketing

974. Hon HELEN HODGSON to the Leader of the House representing the Minister for Resources Development:

(1) Has the Office of Energy made a submission to the Australian Competition and Consumer Commission in response to its request for submissions following the North West Shelf joint venture participants' application for authorisation to continue their joint gas marketing activities?

(2) If not, will the Office of Energy be making a submission in the future?

(3) If not, why not?

(4) If so, did the submission support the continuation of the joint gas marketing activities?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The Office of Energy has met with representatives of the ACCC and provided the responses to its preliminary inquiries concerning the application before it.

(2) Further responses may be made by the Office of Energy to the ACCC's inquiries.

(3) Not applicable.

(4) The responses referred to in (1) relate to the nature of the gas supply and energy market in this State and did not require a specific recommendation on the findings of the ACCC in this matter.

TRANSPORT - AIR

Shine Aviation - Abrolhos Activities

975. Hon GIZ WATSON to the Minister for Transport:

Wildlife researchers and visitors to the Abrolhos Islands report that a floating plane run by Shine Aviation is making increasing use of the south western end of Pelsaert Island as a destination. These observers report that the approaches to the landing area cross a major flight path used by commuting lesser noddies, a threatened species breeding on Pelsaert Island, and by a large number of common noddies and sooty terns. Moreover, noise from the take-off of the float plane causes disturbance to a number of sea bird breeding colonies, increasing the predation of eggs and young.

(1) Is the Minister aware of the activities of the aircraft in this highly sensitive area?

(2) Is the Minister also aware that aircraft are flying below 500 metres over these seabird colonies?

(3) Is this activity authorised by the Department of Transport?

(4) If yes -

(a) what assessments were done on the risk of bird strike in this area and the related safety considerations; and

(b) what assessments were done on the impact of these activities on the breeding sea birds, including the threatened lesser noddy?

Hon E.J. CHARLTON replied:

I understand that there were a few turns, but they were done by the aeroplane when it got there!

(1)-(2) I thank the member for making me aware of the situation.

(3) Shine Aviation Services is licensed under the Transport Coordination Act to operate a number of aircraft for the conduct of charter flights throughout Western Australia. The licences are not route specific or route conditioned.

(4) The Department of Transport in consultation with the Fisheries Department will approach Shine Aviation to look at protecting the seabird rookeries on the Abrolhos.

NATIVE TITLE - GOVERNMENT OPPOSITION

Expenditure

976. Hon BOB THOMAS to the Leader of the House representing the Premier:

What total funds have been spent by the State Government since February 1993 on -

(a) opposing native title claims and related issues in Western Australia; and

(b) opposition to native title legislation through court procedures and other means, including direct and indirect costs of using government personnel and resources?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(a) It is estimated that the State Government has expended to 30 June 1997 about $1.5m in legal and administration costs for seven native title claims in Western Australia that are being litigated in the Federal Court.

(b) $1 734 451.

PORTS AND HARBOURS - JERVOISE BAY

Expansion - Funding and Ownership

977. Hon J.A. SCOTT to the Leader of the House representing the Minister for Regional Development:

(1) Will the proposed expansion of facilities at Jervoise Bay be large enough to build oil barges like the *Laminaria* barge, which was designed in Norway and is being built in South Korea?

(2) Who will fund and own the Jervoise Bay expanded facility?

(3) Do Western Australian building or engineering firms have sufficient technological expertise to carry out such work?

(4) If not, what plans does the Government have to provide this expertise?

(5) Do these firms have an adequately skilled workforce to carry out such work?

(6) What training programs are there to deal with any lack of skills?

(7) What is the overall percentage of work done on offshore oil facilities by WA firms?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The proposed facility is intended for the fitting out and repair of barges similar to the *Laminaria* project. There is no proposal or intention to use the facility for original barge construction.

(2) The basic structure will be funded and operated by the State Government or one of its agencies. All other facilities will be privately funded, owned and managed.

(3)-(4) It is expected that, based on present capability, Western Australian firms will need to form an alliance arrangement with various expert overseas companies to comply with the developers' requirements and to ensure that the best option for construction is put forward by the bidders for the work.

(5) It is considered that an adequately skilled workforce to carry out some of the work packages already exists; however, depending on the scope and extent of future work packages, the Government would need to make ongoing assessments of skill shortages.

(6) A number of suitable training programs are already in place to deal with some skills shortages, but they are flexible and can be modified to meet future needs if required.

(7) The percentage of work done on offshore facilities depends on the type of project.

POLICE - MR MARK ANTHONY ANDREWS

Details of Case

978. Hon J.A. COWDELL to the Attorney General representing the Minister for Police:

With respect to the Mark Anthony Andrews case, I ask -

(1) Is it usual to employ seconded public servants in a sensitive area which handles firearms?

(2) What supervision was Mr Andrews subjected to?

(3) When did it become apparent to police that Mr Andrews had taken a firearm?

(4) Did police find a suicide note or notes when they searched Mr Andrews' apartment on 11 September 1997?

(5) On what date did Mr Andrews commit suicide?

(6) Why was no attempt made to alert Mr Andrews' near relatives and seek their assistance in locating him prior to 15 September?

(7) Why was no effort made to enlist the assistance of the public after Mr Andrews disappeared with a firearm and after the discovery of the suicide note or notes?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No. To meet contingent needs under the national firearms buy-back scheme unsworn redeployees from various agencies were utilised.

(2) Mr Andrews was under the overall supervision of the senior sergeant in charge of the ballistics section. He was also under the direct supervision of another unsworn redeployee with longer experience until such time as he displayed safe firearm handling skills, job understanding and ability to perform assigned tasks without direct supervision.

(3) On 11 September 1997, after ballistics section became aware of a suicide note written by Mr Andrews.

(4) Yes.

(5) Between 10 September and 18 September 1997.

(6) A parent was notified on 11 September by Inglewood police.

(7) An urgent "Look Out to be Kept For" notice was placed on the police network on 11 September 1997. A missing persons notice was made public at a later date.

WORKSAFE WESTERN AUSTRALIA - PROSECUTION POLICY

Crown Law Advice

979. Hon KIM CHANCE to the Attorney General representing the Minister for Labour Relations:

(1) Did WorkSafe seek Crown Law advice on the case involving the prosecution of an Esperance farmer for matters relating to the death of his daughter in a farm accident last year?

(2) Did that advice support the prosecution?

(3) Did WorkSafe's officers who carried out the investigation recommend that the case justified prosecution?

(4) When will the review of WorkSafe's prosecution policy be completed?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(3) Yes.

(4) Within the month.

INDUSTRIAL ESTATES - OAKAJEE

Use of Nuclear Power

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

In relation to the area of the proposed Oakajee development north of Geraldton, I ask:

(1) Has any consideration been given at any time for the proposed use of nuclear power in this vicinity?

(2) Has any discussion been held between the Minister, or his predecessors, or the Department of Resources Development, or its predecessors and any other agency, on the potential establishment of nuclear power facilities at or near to Coronation Beach or Oakajee?

(3) If so -

(a) With whom were any discussions held or considerations made by?
(b) When were discussions held or considered by?
(c) What were the outcomes of any discussions or considerations?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) No.

(3) Not applicable.

I hope that is the nature of the press release the member has released.

DETENTION CENTRES - JUVENILE

Rangeview Remand Centre - Increased Daily Muster

981. Hon CHERYL DAVENPORT to the Attorney General:

(1) Is the Minister aware that the daily muster at Rangeview Remand Centre is now over 50 juveniles?

(2) Has the three strikes law led to the increase in numbers?

(3) Is the increase caused by bail conditions not being met?

(4) Given that these high numbers are well above the original 30 or so for which it was planned and built, what capacity can Rangeview accommodate before a new facility is required?

Hon PETER FOSS replied:

I ask that the question be put on notice.

SPORT AND RECREATION - LESCHENAULT AQUATIC CENTRE

Delay in Construction

982. Hon J.A. COWDELL to the Minister for Sport and Recreation:

(1) Does the Minister concede that the Australind community wholeheartedly supports the construction of the Leschenault Aquatic Centre by raising $750 000, that the Shire of Harvey has committed itself to the construction of the Leschenault Aquatic Centre by pledging $1m towards the centre, that planning for the Leschenault Aquatic Centre is more advanced than the comparative Bunbury project, and that the need for an aquatic centre in Australind is greater than the need for such a centre in Bunbury.

(2) How many years will the Leschenault Aquatic Centre be delayed if the Minister gives priority to the Bunbury project?

Hon N.F. MOORE replied:

(1)-(2) It is important that I explain the situation. Both the Shire of Harvey and the City of Bunbury made applications for funding under the community sporting and recreation facilities fund. Because both projects were close to each other, it was my view that we needed to see at least whether it was appropriate for two

facilities to be located so close together. Given that both projects are very large - the Bunbury centre is worth $6m and the Australind centre is worth $3m - and because they were both seeking to provide the same quality and level of service to their communities, it was important to investigate whether an oversupply would be created by funding both.

During the last decision making process for the community sporting and recreation facilities fund the Government decided to allocate $1.8m to the region, not to any particular project, and at the same time to put together an independent group to provide me with advice as to whether the two projects would create excess capacity. It was reported to me that if both projects were to go ahead it would create a serious over supply of water in that part of Western Australia and it would consume a large amount from the CSRFF. The report also indicated that, if we were to put the capital cost to one side and look at the operating cost, because of the significant over capacity there was every likelihood that both projects would be financially unsuccessful on an operating basis. As members know, the least of one's problems when building sporting facilities is the capital cost of building them - the biggest problem is running and maintaining them.

On the basis of that report I have asked the City of Bunbury and the Shire of Harvey to meet with an independent chairman to reach a compromise. If that cannot be done, I will make the decision about which project will be funded.

Hon J.A. Cowdell: When?

Hon N.F. MOORE: I have already set up a group to look at it again. If the member is suggesting that I should make a decision to spend more than $1.8m of taxpayers' money on a project that might not be viable then I suggest that he has learnt nothing in the past 10 years. I will make the decision once the process I have put in place has been concluded, and I hope that will be soon. I have asked the two local authorities to sit down with an independent person to find another way of doing this. I want to know whether there is a better way of providing the water required without establishing two projects, both of which might go broke. That is the only proper way to sort out a very difficult problem. It does not help when people such as the member and others try to make political mileage out of it by saying that in some way the Government is reneging on a deal. Both local authorities made submissions for funding from the CSRFF, both are entitled to have their projects assessed by that process, and that is what is happening.

Hon Ljiljanna Ravlich: It will not be the first time you have reneged on a deal.

Hon N.F. MOORE: In response, I ask that the business of the House be resumed.

Several members interjected.

The PRESIDENT: Order!
