Parliamentary Debates
(HANSARD)

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LEGISLATIVE ASSEMBLY

Thursday, 30 March 2000

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THE SPEAKER (Mr Strickland) took the Chair at 9.00 am, and read prayers.

OBSTETRIC SERVICES IN THE NORTH WEST

Grievance

MR RIEBELING (Burrup) [9.03 am]: My grievance is directed to the Deputy Premier and is about health problems in regional areas. Approaches to the Minister for Health have been unfruitful and I am hoping that the Deputy Premier, who has a special interest in regional Western Australia, will be able to persuade the Minister for Health to correct some of the problems I will highlight. I am sure that if the Deputy Premier looks at some of the hospitals in his electorate - that are no doubt quite small - he will find that this problem also exists in his electorate. I refer to parents in the Pilbara region not being able to have their children delivered in the towns in which they live. An example of that is Joe Grace and Melissa Bell who currently reside in Tom Price. They have lived in Tom Price since January 1996, and they are expecting their first child in May this year. Ms Bell is a healthy young woman who is expecting her first child. The pregnancy is going marvellously, both she and the child are healthy and all indications are that everything will be hunky- dory. The hospital is classed as a level 1A hospital.

Mr Cowan: Where is the hospital?

Mr RIEBELING: In Tom Price. The Newman hospital is also a class 1A hospital. The couple were told they could not have the child in Tom Price and they would have to go elsewhere. They went to Newman to see whether they could book into the hospital there because they had friends in Newman. However, they were told that children could not be delivered in Newman and they would have to go to either Hedland or Karratha. They then went from Newman to Port Hedland, which is a level 2 hospital. They were told that their child could be born there. However, the potential parents had a look at the condition of the hospital and determined it was unsuitable to their needs. They therefore did not wish to have the child there. They thought the solution to their problem may be to go to Karratha and have the baby there. They went to the Nickol Bay Hospital, which is a level 1B hospital. It is 650 kilometres from Tom Price to Karratha. The parents were told that if a caesarean section were required - the fear about first births is that a small percentage of babies are delivered by caesarean section - there was a strong chance that a doctor would not be available and the mother would be flown to Port Hedland, which was the hospital at which they did not want the baby to be born.

The couple face a dilemma; that is, none of the inland hospitals in the Pilbara region is capable of delivering a baby - I thought it would be one of nature's normal events. People living in Perth have never experienced that, but it happens every day of the week in the Pilbara region. Families wish to set up in the Pilbara and stay for a considerable time, yet because they live in the Pilbara, they are treated differently by the health services. It is very difficult for parents in the Pilbara to have their children delivered there and to then take them home.

An additional problem for the people who live in Wickham is that the Wickham District Hospital has been downgraded from a 1A level hospital - which is what Tom Price is - to a level 1 hospital. Although there is a hospital in Wickham, no planned births happen in the Wickham District Hospital. That is a severe downgrading of that hospital. I am somewhat suspicious of what health departments and bureaucrats do. What happens with hospitals the size of the Wickham hospital is that, when the authorities decide to close the hospital, services are slowly wound back. Then, after a year or so of no children being born at the hospital, the authorities say that the hospital is not being used by the locals and that is used to justify its closure. It is a creeping death, so to speak, and I fear for the Wickham District Hospital. I am told by the administrators that every endeavour is being made to get midwives to Wickham. However, the hospital has been unable to attract midwives to the Wickham area. That can only be because sufficient incentives are not being offered to midwives to live in Wickham.

The other solution that should be considered is to rotate a midwife service through the Nickol Bay Hospital and the Wickham District Hospital so that the towns of Wickham and Karratha can be properly serviced with midwifery services. I hope the Deputy Premier will have some influence on the good minister to ensure that these inland and Pilbara towns have these vital services.

MR COWAN (Merredin - Deputy Premier) [9.11 am]: I understand precisely the point made by the member for Burrup. He should have made his grievance to my colleague the Minister for Health; however, perhaps it was directed to me in the knowledge that I would be present in the House and that he would at least be able to make the grievance.

I sympathise with the comments made by the member for Burrup on the basis that I live in an area where the same problem occurs. The rural obstetric guidelines recently launched by the Minister for Health have established standards which apply not only to doctors who are delivering babies but also to nursing staff who are required to provide support in hospital to mothers both before and after the birth of their babies. It is now difficult for the Government to meet those standards which have been established. I add that the standards were put together, not as departmental rules and guidelines, but after discussions with members of the medical profession, which I am sure wants to set a highest possible standard. As in many other professions, there was a desire to afford some protection to the medical profession when things go wrong. Two issues motivate the setting of those standards, particularly in country hospitals: One is the experience of the doctor and nursing staff; the other is the number of deliveries likely to occur in a hospital which gives a clear indication of maintenance of those standards which the guidelines seek to establish.

The task for the Government, as the member for Burrup alluded to, is to meet the rules that have been laid down. It is inappropriate and indefensible for the Government to say that the entire inland townships of the Pilbara are now to be without the capacity to deliver babies. Somewhere between 8 000 and 12 000 people live in the communities in the Pilbara region and one of the great advantages of living there has been the normalisation of those towns, with people beginning to develop a community spirit, which gives such towns some character and culture. It is inappropriate for the Government to remove an essential service. The Government must meet the challenge associated with the establishment of those guidelines and do as much as it possibly can to restore that capability to hospitals, not only in the Pilbara region but also throughout country towns where medical practices exist with a single doctor. Some of those doctors provide some specialist services, therefore, they must demonstrate those standards required by the guidelines.

It is important for the Government to ensure that it can meet that challenge. The Health Department is negotiating currently with the medical profession to provide, for example, a new visiting medical service by private practitioners to small country hospitals. That service will be able to deal with the issues of the level of competency and the availability of doctors to deliver babies in the towns in which women reside. It is appropriate for us to do that within reason and I will ensure that we do it.

Finally, the member showed interest in the regional development policy that the Government has undertaken to produce. He will have noticed that a considerable amount of effort was given to retaining professionals in regional areas. It is appropriate that the member directed his grievance to me on the basis that the Minister for Health is not present in the House, because our policy requires that we do as much as we can to retain professionals in regional areas. We will undertake to implement that policy. I assure the member that medical practitioners and nursing professionals are two key areas upon which we will focus our attention in the implementation of that policy.

Mr Tubby: Isn't there some reluctance on the part of GPs to become involved in obstetrics because of the degree of litigation involved?

Mr COWAN: Yes, there is. There is no doubt that the insurance premiums they must pay indicate that to be the case. However, in this instance the profession has rightly established rules and guidelines which have now been published and which the Government must meet. Those rules and guidelines deal with competency and the frequency of births so that not only doctors but also nurses can maintain their levels of competency. The Government will do as much as it can to ensure that, as far as practicable, women can have their babies in the towns in which they reside.

FINANCE BROKERS, FIRST MORTGAGE ISSUE

Grievance

MR NICHOLLS (Mandurah) [9.17 am]: My grievance is to the Minister for Fair Trading and relates to an issue commonly known as the first mortgage issue and I wish to focus on the undoubted widespread concern about first mortgages. I have spoken to the minister on a number of occasions and we have heard a number of debates in this House. Global Finance Pty Ltd and Graeme Grubb Finance Broker have ceased trading. An administrator has been appointed to one of those companies and action is being taken in respect of the other. Police investigations are ongoing and the public has focused on this issue. The Australian Securities and Investments Commission has also intervened. I hope all these actions will lead to an outcome that will see investors receive, if not all of their funds, a substantial amount returned. I also hope the people who have committed criminal acts or not lived up to their fiduciary duties are prosecuted and any assets they acquired through these acts are seized and liquidated to provide a return to investors.

The focus of my grievance today is on the plight of investors with Blackburne and Dixon Pty Ltd. A number of people in Mandurah were induced to invest in first mortgages through Blackburne and Dixon, one example being a purchase of 24 units in the Dunsborough Resort Motel. A letter written by K.C. Blackburne, noted as the managing director, to investors dated 8 February 2000 states -

> The Australian Securities and Investments Commission have requested that we forward to you the attached statement detailing various matters relating to the defaulting loan of which you are a Mortgagee.

I refer to the attached statement which states that the loan for $300 000 was used to purchase 24 units in the Dunsborough Resort. The statement continues -

- "... $415,033.81 was paid to Meadowfield Pty Ltd. There was no evidence that this payment was applied to the purchase of this property."

The statement went on to say that the name of the borrower was Mr S.J. Papotto of 30 Chandos Way, Greenwood, the mortgage had expired and interest was outstanding. Commencement date of the loan was 25 August 1997 for 12 months. However, the borrower paid interest only to 25 January 1998, which means the loan was defaulted five months after it was taken out. That is extraordinary.

The real point of my grievance is to determine what responsibilities should be applied to the directors of Blackburne and Dixon. Is the firm still trading? If so, why? Should the directors of Blackburne and Dixon be brought to account for the misuse of investors' funds? If so, why has action not been taken to seize the assets of these directors? Why have claims not been made against others who gained a financial advantage or against the professional indemnity insurance of the directors if they were simply negligent? Why have the directors of Blackburne and Dixon not been held accountable for the misuse of investors' funds? Who should be ensuring that they are held accountable?

I am concerned that the directors of Blackburne and Dixon may attempt a "Bond"; that is, shed any assets they have as directors or any assets they may have in the company, so that when a case is brought against them they will not have any assets to pass on to the investors. Why has an administrator not been assigned to the company to manage the existing first mortgage investments? What recourse do the investors have against these people? Was Mr Papotto, or any other person involved with this scheme, breaching any guidelines or rules under Corporations Law, the Finance Brokers Control Act, the Trade Practices Act or any other legislation covering this activity? Are any investigations being undertaken to ascertain whether criminal offences have been committed in over-valuing property or making fraudulent claims?

As the minister is aware, significant issues surround all the first mortgages. A significant number of people in the Mandurah area have lost their life savings or, in some instances, substantials savings, attributed, in my view, to not simply bad decisions but fraudulent activity by some people. Those people have been looking after their own interests, rather than putting first the interests of investors, by trying to create scams to relieve people of their investments.

I am aware that action is being taken on the Global Finance Group Pty Ltd and Grubb Finance Consultancy. However, what can be done about investors who have lost money in Blackburne and Dixon?

In summary, I want the Blackburne and Dixon directors' assets frozen to prevent them from shedding them or shifting them offshore to avoid being reached through litigation in future.

Can an administrator be put into the company, not necessarily to manage the whole company, which is my preference, but if that cannot be done, to manage the first mortgage investments? I would like to see a thorough investigation into the activities of Blackburne and Dixon and Mr Papotto, or anyone else involved in the scheme, to determine whether they have breached Corporations Law, failed to live up to their fiduciary duties or breached the Trade Practices Act by purporting to be investing in worthwhile investments for all the investors who have been taken down in this scam.

MR SHAVE (Alfred Cove - Minister for Fair Trading) [9.24 am]: The member for Mandurah has raised this issue with me on a number of occasions. I recommended that he bring these issues to the attention of the Parliament because he felt strongly about them. I do not intend to detail all the operations of these brokers because I have only seven minutes in which to cover a large number of areas.

As people who understand pooled mortgages will know, the Australian Securities and Investments Commission has had control of this area since 1992. Although it is suggested the 1998 changes to the federal legislation originated from Western Australia, they originated as a result of many scams that were being run in Queensland and in the eastern States. As I pointed out previously, the matters relating to these pooled mortgages did not come to light until towards the end of 1998.

ASIC has considerable responsibility in this area. The new regulations that came into force on 17 December 1999 require these finance broking companies to be licensed by ASIC. The regulations require them to provide net tangible assets from a scale of $50 000 to $5m. They are required to maintain professional indemnity insurance, to issue prospectuses for each new scheme and to register with ASIC. Anyone with an interest in the matter should speak to ASIC to fully understand its powers.

I have raised the Blackburne and Dixon issue with ASIC because at present the Government is untangling the trust accounts of Global Finance and Grubb Finance with a view to taking legal action against auditors, valuers and company directors. Essentially, as I said, the real power regarding these pooled mortgages lies with ASIC. ASIC has advised me that Blackburne and Dixon entered into enforceable undertakings with ASIC on 15 November 1999, which meant they were not to arrange any new mortgage investments or extend any existing mortgages and they must appoint an independent in-compliance auditor to examine loans in default.

Blackburne and Dixon then wrote to investors advising them that the firm was renouncing its agency in respect of investments being managed in February 2000. ASIC's response was to issue a media statement on 22 February indicating that the closure of the firm did not affect the status of the mortgage investments it had arranged. Investors remain entitled to be paid principal and interest and to enforce their mortgages. No external receiver or liquidator has been appointed to the firm, so funds held on behalf of the investors are frozen. In addition, ASIC advised investors that where loans were in default, they should seek their own legal advice with a view to taking action to recover their investment funds.

A liquidator was assigned to Global Finance and Grubb Finance, although the Federal Government did not provide the liquidator with any funds. As a result of submissions to the State Government, we assigned supervisors and the State Government is doing the Federal Government's work by paying for the liquidators and the supervisors. I have taken up that issue with the Federal Government. However, Blackburne and Dixon is still trading. If a liquidator had been assigned to Blackburne and Dixon, we could put in a supervisor and address the issues as is occurring with Global and Grubb.

I do not know whether the Federal Government's legislation gives it the right to force Blackburne and Dixon into liquidation. It appears to me that its directors have shunned these people by telling them to do their best while it keeps trading. I find that totally unsatisfactory. It was brought to my attention that perhaps one of the directors of Blackburne and Dixon was in the process of applying to the Finance Brokers Supervisory Board for a licence in his own name. The company has been trading in this manner and defaulting on loans while that person is putting forward an application to the board in the hope of becoming established as an independent pooled mortgage broker again. I will not accept that position. We will make representations to the board about that application. I hope the board will view seriously the position in which some of these directors have placed Blackburne and Dixon investors.

I do not think it is good enough for a company which has behaved in this manner to suddenly turn around and say that it

has created all these mortgages, some of which are highly suspect, but will not take any responsibility for them. The company has said that the investors should look after themselves and that it will not honour the obligation it should have to look after them. The company took these people's commissions and was happy to do the business, it was quite happy to put these people into this scheme, but has now cast them aside to get their own legal advice. As minister, I am confronted with that problem, but these brokers are controlled by the Federal Government. I have suggested to my people that when they are talking to the Australian Securities and Investments Commission they should suggest that if ASIC has the capacity to put that company into liquidation and take over the running of it, it should do that because I do not believe that that company is acting in an honourable or appropriate manner.

The company might consider those comments to be harsh. I do not think they are. Having made those comments, I will detail my actions on this matter. In February I wrote to Mr Hockey, the commonwealth minister, and expressed my concerns about Blackburne and Dixon. ASIC put out a release stating that the revocation of the agency in no way absolved Blackburne and Dixon of its obligations. I hope ASIC is looking at the auditors, valuers and directors of Blackburne and Dixon to ensure that the directors are brought to account. In conclusion, I can assure the member for Mandurah that I am well aware of the concerns he has brought before me and the representations he has made. I will ensure that the Finance Brokers Supervisory Board takes a very long look at any application made by any of these directors.

FABRICATION INDUSTRY

Grievance

MR MARLBOROUGH (Peel) [9.31 am]: I bring to the attention of the Parliament through the Minister for Resources Development the situation at lot 6 Office Road, Kwinana, where a company known as Volefox Pty Ltd is presently undertaking the building of a new fertiliser plant on that site. Volefox is a branch of Summit Fertilizers, an existing Kwinana company and an associated company of Sumitomo of Japan. No work has been done on the site for more than a week for a number of reasons, not least of which is that all of the fabrication steel - some 2 300 tonnes - for the job has been fabricated in South Africa and is presently being held at Luckens Fumigation Services on the north wharf in some 34 by 40 foot containers.

Not satisfied with fabricating the steel in South Africa, we have the ludicrous situation of the company importing the labour as well. Let us look at the quality of the labour the company has imported. I will then go on to demonstrate that this area has lost thousands of jobs in the fabrication steel industry alone in the past two years under the Minister for Resources Development and this Government.

Mr Barnett: Is it new fabrication?

Mr MARLBOROUGH: Yes. The people on site from South Africa include one crane driver, one boilermaker, four riggers, and one dock man. Eight electricians and other tradespeople are on the way. We understand that they will be installing other parts of the plant once the fabricated steel is in place. In the main, the fabrication work consists of some fabrication to carry conveyor belts and of building a massive workshop to contain the fertiliser plants. All of that steel was fabricated, sand blasted and painted in South Africa and we understand that process equipment, conveyers and mixers will also be sent from South Africa.

WorkSafe was called to the site on Monday and discovered that the South African workers were already putting together a mobile crane for lifting purposes. It was fairly obvious to the untrained eye that these workers had very little skills to do the work and I think members will find that the WorkSafe report will indicate that the crane's outriggers were being jacked up on pine timber. As a result, WorkSafe moved the workers off site. We have discovered in the past 24 hours that these people have visas but we understand that there has been no test for the issuing of those visas as required under the immigration Act. We are told that these workers will somehow acquire the appropriate certificates for the job. In the meantime, WorkSafe has issued a prohibition order and stopped the work on the site.

I will now put this into the context of what is happening not only in Kwinana but also in the State. The following situation has developed in Kwinana under the leadership of the Minister for Resources Development and this State Government. A research survey of the Kwinana workshops found that in 1998 some 4 434 workers were engaged in the fabrication industry and in March 2000 there are 1 594 people employed in that industry in Kwinana. In Rockingham and Kwinana since January 1999 my electorate has suffered a loss of some 1 700 boilermakers and associated tradespeople such as riggers, scaffolders and crane drivers. That is in the past 14 months alone. When we are losing our key tradespeople in this State there is absolutely no rationale for allowing this steel to be fabricated offshore and for tradespeople to be brought in to do the work which should be carried out by Australian tradespeople, particularly given the decline in the work force I have outlined. The minister should also be aware that in 1992 fabricated materials such as this accounted for 2 per cent of all fabricated steel used in Australia. In 1998 that figure had risen to 12 per cent and the experts in the field predict that within five years the use of imported fabricated steel for projects in Australia will rise to 50 per cent. If one were in the fabrication steel industry and looking at one's future investment, one would have to be very concerned about those figures. The minister would be aware that 10 fabrication factories have closed down in the past 12 months. Last January, United Construction Pty Ltd employed over 600 people on site. I spoke to the company yesterday and found it is down to employing slightly over 50 people, half of whom are apprentices. ABB Engineering Construction Pty Ltd, another multinational company located in Kwinana, has recently sold out.

We have a job crisis in the engineering field and once lost, the jobs will not return. That is a problem and we will have training problems in the future. We have an atmosphere in which this Government should be doing everything it can to

stop fabrication workers being brought in from overseas. The Government should be doing everything it can to convince its federal colleagues that the issuing of visas to unskilled workers is not appropriate. It is certainly not appropriate when Australian workers are out of work.

MR BARNETT (Cottesloe - Minister for Resources Development) [9.38 am]: I will make a more general comment before I comment on this example. I acknowledge that the number of engineering fabrication workers in the Kwinana strip has fallen very sharply and there are a number of reasons for that. We had an enormous build-up in resource development activity following the gas deregulation in the mid 1990s. For example, we saw the three nickel projects in the goldfields, the alumina constructions which are now virtually completed, the BHP DRI plant, the Collie power station and other projects which are under construction.

There was an enormous surge when new investment activity increased from $2b at the beginning of the decade to more than $5b in the peak year. Many of those projects have now been completed, and I readily acknowledge that there is now a gap. However, at the same time, members opposite will agree that clearly a strong resurgence of new investment activity is taking place in this State. The projects that have so far moved forward this year are the $50m development for the woodchip plantation project near Albany; the $600m project for Syntroleum, which is expected to start construction in the third quarter of the year; and the $1b Robe River project announced this year, which will have 90 per cent Australian content, with construction starting in about a month's time. There are other projects, and the big one is obviously the North West Shelf expansion. These projects will bring much more work and activity into that area and will relieve the current tight position for those companies.

With respect to the construction of a fertiliser plant, I agree with the sentiments expressed by members opposite. I do not support in any way the importation of fabricated materials when the construction could be done economically in Western Australia. I certainly do not support the granting of temporary work permits for overseas workers when clearly there is a surplus of that skill in Western Australia. I shall now comment on the circumstances. Interpact Holdings Pty Ltd has imported a fertiliser manufacturing plant, which is to be built on the disused Rockingham drive-in cinema site on the corner of Patterson and Office Roads in Kwinana. The plant has been brought into Western Australia in containers, and consists of 1 200 tonnes of fabricated steel and 100 tonnes of equipment. In addition, 14 South Africans - two supervisors and 12 riggers-tradesmen - have come to Western Australia on temporary work permits to erect the plant. I have been advised of those facts.

With respect to the temporary work permits, the federal Department of Immigration and Multicultural Affairs has responsibility for this issue. It has advised that the application for the 14 workers was processed in Adelaide - that is remarkable in itself - and that the applicant, Interpact Holdings, was found to meet the department's prescribed criteria for sponsoring a company. Those criteria for DIMA are that the company must be legally established; of good reputation; an employer whose business activities would benefit Australia as a result of the employment of sponsored persons; an employer with a satisfactory record of training who would utilise or create new technology or skills from employing someone from overseas; and undertake responsibility for each person brought temporarily into Australia. In its assessment process DIMA determines whether the positions to be filled are key or non-key activities. Key activities are described as those which are normally carried out by senior executives or specialists. There is no labour market testing requirement for key activities. In this case DIMA did not require market testing at all, and to my knowledge it did not even make a telephone call. Had DIMA telephoned my office, the Department of Resources Development or the Department of Commerce and Trade it would have been told very clearly that those skills were available in this State.

As a general comment, I am finding increasingly that federal agencies do not have the courtesy or commonsense to contact their state counterparts on very simple and basic issues. Our advice to DIMA would have been that there is no justification at all for temporary work permits for these tradespeople.

With respect to the fabrication and local content - I am not dodging the issue - I make the observation that the imported fabricated steel is not an illegal import. The State has no import control capacity; it is a federal responsibility. WA has a local content policy to ensure maximum local content in resource projects, but this is not a natural resource project. I have no control over it as Minister for Resources Development, and neither does the Minister for Mines. The Government's resource development local content policy relates to the development of Western Australia's natural resources, and in that I argue that WA has the strongest policy in Australia. Members opposite might want it to be stronger, but generally we achieve between 85 and 90 per cent Australian content on onshore mining projects and between 60 and 70 per cent on offshore projects. The State Government is currently funding the industrial supplies office, out of the Chamber of Commerce and Industry, to the extent of $450 000 a year, to work with proponents in the early stages of development. On some new projects coming forward, given their sophisticated technology, there will be a strong temptation to build modular units offshore and then bolt them together in WA. We are working to ensure it does not happen. I do not support the importation of fabricated steel.

Mr Grill: What representations have you made to DIMA?

Mr BARNETT: I became aware of this only when I read about it in the newspaper. My agencies have had no involvement at all; it was only when it became a public issue that they became aware of it.

Mr Grill: What do you intend to do?

Mr BARNETT: I will make it clear to DIMA that in my view there is no justification for these tradesmen being given temporary work permits on those criteria. Indeed, I will strongly suggest that if situations like this arise in future, DIMA

should have the courtesy to contact Western Australian government agencies and ask the question. Had it done so, it would have found there is a surplus of these skills in this State. With regard to the imported fabricated plant, there is nothing particularly sophisticated about this fabrication, which could, and clearly should, have been done in Western Australia.

HEALTH CARE - SHIRE OF BUSSELTON

Grievance

MR MASTERS (Vasse) [9.46 am]: My grievance is directed to the Minister for Health, represented by the parliamentary secretary. I have spoken in this House several times over the past three years about the tremendous growth in the Vasse electorate. Towns such as Busselton are expanding their population base by between 3 and 6 per cent a year. The Vasse electorate, for example, now has 4 000 electors above its average electoral entitlement of 12 000. In addition, Busselton and the south west corner of the State are becoming more and more popular with tourists. That is a very good thing, and it is primarily due to the expansion of the wine industry and the increase in the number of tourist attractions and accommodation facilities in the area.

However, in combination with the increase in the resident population, this increase in tourism is placing significant pressures on both the Busselton Hospital and the Kevin Cullen Community Health Centre, which is located on the same site. Those pressures are obviously taking a toll on staff and facilities. It is important to express my thanks to John Edwards, the Chairman of the Vasse-Leeuwin District Health Service Board; Jim Lee, who recently retired from the Vasse-Leeuwin District Health Service as its administrative head, to the doctors, nurses and all other staff, and to the volunteers involved in running the hospital and health centre.

The problems are basically that the hospital is now some 35 years old. Although it was undoubtedly a modern, state-of-the-art facility at the time of its construction, today it can be likened to a rabbit warren. It has long corridors, low ceilings and a design that does not lend itself to modern medical and health procedures. The Kevin Cullen health centre was built in 1974, so it is 26 years old. However, it is far too small to cater for the full range of services that a modern centre must provide to a diverse community such as that in Busselton. In addition, there are structural problems. It has a flat roof and that causes a number of leaks to develop during the winter months. Although that does not affect anyone's health, it causes great inconvenience. David Bower, who is in charge of the engineering services at the hospital and health centre, has pointed out that the airconditioning system is so old that it is almost impossible to keep it going and to maintain it.

I commend the State Government for two recent funding initiatives. First, only two months ago, a $1.2m program of upgrading the hospital was undertaken. We now have a second surgery theatre and a day surgery ward. I believe the staff are very impressed and happy with the upgrades, and I commend the Government for finding the necessary funding for this facility to be provided.

The second initiative is the hospice, which is now under construction after a protracted planning period. I recognise Dr Trent Healy, Brian Liedle and the community committee supporting the hospice and a number of other people who threw their support behind the construction of this facility. It will be a very valuable addition to the health care services of the region.

I understand that this $1.2m upgrade will add between three and five years' effective life to the hospital. If that is the case, I would like to hear from the parliamentary secretary some detail about the planning process undertaken by the Health Department, the Vasse-Leeuwin District Health Service and the community to assess the needs of an area such as Busselton. How do they determine what life remains in the existing facilities and what options will be adopted and implemented? I understand that three options are available: First, to continue to upgrade the existing hospital and the health centre as and when needed; second, to build a new hospital and associated facilities, such as a new hospice and health centre, on the surplus land on the Bussell Highway side of the existing hospital site; and, third, to move to an entirely new site. Each option has certain strengths and weaknesses. Upgrading of the existing buildings may not be cost effective because of their age and, if their designs do not lend the buildings to efficient upgrades, this may be a case of pouring good money after bad. In particular, the community health centre may be beyond salvaging because of its flat roof and old electrical and other service networks. It may be best to bulldoze it. One advantage of building at the front of the existing site is that there will be less disruption to patients and staff. In theory, the high-value land on the seaward side of the site could be sold off for urban development, thereby offsetting the cost. However, it will be necessary to assess whether sufficient land will then be available for future upgrades or expansions.

The third option is to move to a new site and the Vasse-Newtown development has been suggested as a possibility. This would allow the entire existing site to be sold off, and there is also a possibility of a private hospital being built at the Vasse-Newtown site as a collocated facility. If this is to occur, there must be extensive consultation with the Busselton community to ensure they are involved in the process.

At present, I have a completely open mind about the best options. Therefore, I seek advice from the parliamentary secretary on the planning process the Health Department must follow.

MRS HODSON-THOMAS (Carine) [9.54 am]: In the absence of the Minister for Health, I am pleased to respond to the member for Vasse's grievance today. The member has outlined the concerns of his electorate and acknowledged that the Minister for Health has responded to the needs of the Vasse community with the $1.2m redevelopment of the Busselton District Hospital, which was completed in January.

The redevelopment followed the decommissioning of the former Peppermint Lodge Nursing Home located on the hospital

site. Residents of the nursing home were transferred to a new private aged care facility, which allowed the vacated space to be converted to provide an enhanced day surgery. Together with the extra space for day surgery, spacious second and third-stage recovery areas were also provided because of the increased levels of activity associated with the day surgery. The existing theatres were also modified to provide a larger first-stage recovery area, and the central sterilising services department was also upgraded. Other areas of the former nursing home were converted to provide four clinical consulting rooms, a number of offices for the south west population study group and the Busselton health survey group.

As the member for Vasse has acknowledged, a $458 000 two-bed palliative care unit is currently under construction at the end of the existing ward block. I take this opportunity to congratulate and acknowledge the local community for its significant contribution of $108 000 to this project. In addition, $68m has been spent on the new collocated South West Health Campus in partnership with St John of God Health Care. The health campus comprises a 115-bed public hospital, an 80-bed private hospital wing, six operating suites, and a 15-bed psychiatric unit and support services.

In determining the priorities for its capital investment, the Health Department takes into account the requirements to address new areas of need while still ensuring that existing health infrastructure is progressively maintained and refurbished to provide a continuing high standard of health care. The Health Department's $1b asset base is managed in accordance with the Government's strategic assets management principles. Underperforming and surplus assets are sold to increase capital funds available for new investment in health infrastructure. Clearly, considerable investigation and research is undertaken to ensure that available funding is allocated to the areas of highest need, and particularly to move services closer to where people live. As part of the state budget cycle, each year the Health Department requests business cases from health services to address local capital improvement requirements. These business cases, together with capital needs that have been identified through strategic planning processes, are consolidated into a draft capital works program. For the benefit of the member for Vasse, a document entitled "Project initiation process for capital investment in non-residential buildings" outlines the planning process for any future development. I recommend that the member take the time to read the document and familiarise himself with it.

Notwithstanding the recent redevelopment of the Busselton District Hospital, the member has highlighted his concerns and acknowledged that the recent redevelopment has extended the life of the hospital facility by almost five years. The Health Department also acknowledges that the recent upgrade of the day surgery ward and theatre area will extend the operational life of the hospital by a minimum of five years. This improvement, coupled with improvements in technology and appropriate management strategies, will enable the hospital to meet the needs of the community until such time as a final determination is made.

In November 1999, Silver Thomas Hanley, architects and health planners, completed development master plans for the hospital within the Vasse-Leeuwin District Health Service. The report confirmed that the present hospital site, with its 12.3 hectares, could easily accommodate a major expansion of existing facilities or the construction of a completely new facility. The member outlined three options, but there are four - two of which are similar: Option 1 is the redevelopment and expansion of the existing hospital with the main entry at the south side; option 2 is similar, but with the main entry at the north side; option 3 is the construction of a new hospital on the existing site to the south of the present facility and the demolition of the existing facility; and, option 4 is the construction of a new facility on a different site, and the demolition of the existing facility. Given that a new or redeveloped hospital will not be required for at least five years, detailed evaluation of these options is yet to be undertaken. Such an evaluation will be undertaken over the next three to five years, and will therefore be able to take into account any changes in the local area, including the member's concerns about the population growth.

I understand that the draft urban growth strategy prepared by the Busselton Shire Council in September 1998 indicates that, geographically, the present hospital site remains reasonably central and accessible to the community. As the member is aware, a proposed bypass route to the south of the current urban development zone will provide a direct connection to Vasse and will divert a significant amount of through traffic away from the hospital access route on Bussell Highway.

The DEPUTY SPEAKER: Grievances noted.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Rules of Harness Racing - Report

MR WIESE (Wagin) [10.00 am]: I present for tabling the report of the Joint Standing Committee on Delegated Legislation in relation to the Rules of Harness Racing. The committee had the opportunity to look at the rules of harness racing after they were tabled in the Parliament late last year. The rules of harness racing comprise a 157-page document, incorporating 379 rules which are a combination of the local rules retained from the previous Western Australian Trotting Association rules, the rules adopted by the other five States and the national rules that have been incorporated into the Western Australian rules. Section 7 of the Western Australian Trotting Association Act allows by-laws to be made. The original by-laws are contained within the first schedule of the Act, which is a rather unusual arrangement because it means the by-laws are part of the Act rather than a separate set of instruments. Therefore, the by-laws form part of the primary legislation. They can be repealed, amended or created by an absolute majority of the committee of the Western Australian Trotting Association. Parliamentary debate on the by-laws is not required, although they are part of the Act; therefore, the by-laws are not required to be amended through a parliamentary amendment to the Act. That is also an unusual situation.

By-law 59 provides for the making of rules for the conduct of harness racing and for penalties and fees. It is comprehensive and I do not intend to read it all to the Parliament. It finishes with a remarkable paragraph which states -

> Every person who nominates, owns, leases, trains, rides, or drives a horse or has any share, interest, or part in the nomination, ownership, lease or training of a horse and every other class of person who purports to be referred to in and dealt with by any Racing Rule made under this by-law shall be absolutely bound thereby, whether the same is or is not irregular or is or is not ultra vires of the Committee.

That is an extraordinary clause.

Mr Trenorden: Is that legal?

Mr WIESE: Of course it is not legal! The Joint Standing Committee on Delegated Legislation brought that to the attention of the committee of the Western Australian Trotting Association. These rules are subject to section 36 of the Interpretation Act and are therefore subject to tabling in the Parliament and to the disallowance processes which are part of that Act. That clause was brought to the attention of the committee of the Western Australian Trotting Association. It agreed it was not an appropriate by-law and will amend it.

The memorandum of explanation the Western Australian Trotting Association initially provided to the committee to explain everything contained in the 157 pages of rules comprised two paragraphs. The committee was not particularly impressed with that and wrote to the association requiring a much more substantial explanation. The committee also identified several other concerns with the rules and wrote to the WATA requesting amendment. In all cases the committee of the WATA agreed to make the changes. However, one of the issues the Joint Standing Committee on Delegated Legislation raised with the committee of the WATA related to the rules allowing the Western Australian Trotting Association to demand breath and urine samples for the purpose of attaining evidence of offences committed under rules 250, 251 and 252. This material is contained in the report and I will not go into the detail of it now. The committee had strong concerns about these rules and whether the committee of the Western Australian Trotting Association had any authority to demand breath and urine samples. The Western Australian Trotting Association took the committee's comments on board. It agreed to write to the responsible minister, who at that stage was Hon Max Evans, to ask him to make amendments to the Act to remove any legal doubt over whether the WATA had legislative authority to carry out those duties.

Mr Trenorden: Is the member aware that the Western Australian Turf Club has the same rule?

Mr WIESE: Yes. During the discussions, the Western Australian Trotting Association indicated it had received legal opinion that legislative authority for the rules was contained in by-law 59 (b) which provides that the Western Australian Trotting Association may make rules -

> determining the rules and conditions to be observed by owners, nominators, riders, drivers, competitors, trainers, and other assistants before, during or after any race meeting, including nominations;

The committee's opinion was that the by-law does not provide the WATA with the legislative authority to make rules requiring a person to provide a sample. The clause is expressed in broad language and makes no mention of the legislative power to require samples to be taken. The committee notes that in other instances when there is a similar requirement, the power is contained in the Act. The Road Traffic Act and the Rail Safety Act are examples of that. Those Acts must come before the Parliament. The committee indicated that taking bodily samples from people without consent is a significant infringement of a person's liberty and without the proper legislative authority it is a gross infringement of their rights. It expressed the belief that taking a sample without consent could constitute an assault and ought to be properly dealt with by an appropriately worded provision of the Act. The committee indicated that to both the Trotting Association and the minister. It believes these amendments must be brought before the Parliament as a matter of some urgency to ensure, among other things, that members of the association who are involved in the taking of these samples do not become legally and personally liable for the exercise of the power they are carrying out.

As I indicated, the matter was brought to the attention of the ster, Hon Max Evans. Subsequently, on 27 January 2000, the new minister, Hon Norman Moore, replied to the committee. That letter is annexed to this report. Minister Moore indicated that he advised the committee that the Crown Solicitor's officers confirmed that neither the Act nor the rules established authority for the WATA stewards to take bodily samples in circumstances in which the person being requested to provide a sample refused such a request. The minister accepts that there is no authority for it to be done. The minister went on to say that he was not convinced that it would be appropriate to amend the Act to provide for such power. At this stage the matter is in limbo, and in my opinion and the opinion of the committee, this very serious situation needs to be addressed.

On 28 February, the committee considered the minister's reply. It is the committee's opinion that the order, direction or requirement of the controlling body of stewards must be lawful before any sanction can be imposed under existing rule 238. In the absence of a legal requirement similar to that required under the Road Traffic Act, it is the committee's view that any disciplinary proceedings brought under the current rules against such a person for exercising his or her right to refuse to provide a bodily sample will be ultra vires the Act. I think that everybody who is involved in this issue should be aware of and take note of that opinion. In the committee's opinion, such a result could expose the Western Australia Trotting Association and its stewards to possible legal action in the event that disciplinary proceedings were taken against a person under rule 238.

Rule 255 creates the offence of failing to comply with a rule. Rule 256 sets out the penalties, which can be very severe, up to and including disqualification for a period or permanently. The penbalties that the committee can impose for breaches of these rules are very significant. The size of those penalties indicates that there is a very strong probability that at some stage someone who believes that he is being dealt with unfairly or inappropriately will take the issue to court and it is likely that the Trotting Association or its stewards will be found wanting.

The report indicates a few alternatives to amending the Act but they are not really the appropriate way of making the changes that are required. One of the processes could be to amend by-law 59 to give the controlling body power to make rules to control the use of alcohol and other drugs. That by-law would not make it a requirement to submit a sample or grant power to demand a sample. However, it will help the situation and it could empower the controlling body to make rules imposing sanctions in the event that a person refuses to a reasonable request to volunteer a sample. In the committee's opinion, the Act needs to be amended urgently to ensure that the situations that we have outlined do not occur.

In bringing this matter to the attention of the House, the committee strongly recommends to the Western Australian Trotting Association and the minister that the Act be amended to address the shortcomings in the Act. It especially calls upon the minister to take the necessary steps as soon as possible to make the appropriate amendments. I have great pleasure in putting the report before the Parliament and I indicate the strong hope that members will take the opportunity to look at the Act, especially members who have some involvement or interest in the Trotting Association and in the sport of trotting and that they will bring appropriate pressure to bear to have the changes made which the committee believes need to be made with a degree of urgency.

[See paper No 793.]

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 1999

Consideration in Detail

Clause 1: Short title -

Dr EDWARDS: Why is the Bill called the Conservation and Land Management Amendment Bill 1999? I understand that the minister wants to amend the Conservation and Land Management Act 1984. However, given the broad nature of what is being done with this Bill - creating a new Department of Conservation with a very new mission, and splitting the current Department of Conservation and Land Management and renaming it and establishing the Forest Products Commission - would she not consider calling it something else? Can she give us an indication of her timetable, given that there may be some other review of the Conservation and Land Management Act after it is amended? There are a lot of concerns about the lack of attention given to biodiversity in the State and a lot of other issues that have been raised that highlight that the current Bill, even though it is fairly modern, is somewhat out of date.

Mrs EDWARDES: Obviously, there are a number of proposals for amendment following these amendments going through the House. As the member has indicated, we do not propose to change the title of the Act. However, that is something that we may consider later. The two key areas for proposed future amendments are the new biodiversity Bill which will replace the Wildlife Conservation Act, and any consequential amendments to this Bill. That is a big task which has had to be put on the backburner to some extent - but not completely, as work continues to be done - primarily because of the marine parks and reserves authority legislation, a large piece of legislation, and these amendments. There will be further amendments to the parent Act in the short term, primarily as a result of the commitments given under the Regional Forest Agreement. I do not have a timetable by which I will introduce them into the House. However, some will be required urgently in order to meet our commitments.

Further reviews of the Conservation and Land Management Act will be undertaken as required. I am aware of the commitment to indigenous groups and part of our commitment under the Regional Forest Agreement requires us to give consideration to them in future amendments to this Act.

Clause put and passed.

Clause 2 put and passed.

New clause 3 -

Dr EDWARDS: I move -

Page 2, after line 3 - To insert the following -

3. Objects

(1) The Objects of this Act are:

(a) to provide for the protection and conservation of the terrestrial, marine, and aquatic environments of Western Australia; and

(b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources; and

(c) to promote the conservation of biodiversity and the maintenance of ecological processes; and

(d) to promote a partnership approach to the protection and management of the environment involving governments, the community, land-holders and Aboriginal peoples; and

(e) to assist in the co-operative implementation of Western Australia's state, national, and international environmental responsibilities; and

(f) to recognise the role of Aboriginal people in the conservation and ecologically sustainable use of Western Australia's biodiversity, by applying best-practice principles of comanagement for the purposes of environmental protection, biodiversity conservation, forest management, and protected area management; and

(g) to promote the use of Aboriginal peoples' traditional ecological knowledge with the involvement of, and in co-operation with, the owners of the knowledge.

There are currently no objects in the Conservation and Land Management Act. Legislation of other States and other bits of Western Australian legislation, such as the Fish Resources Management Act, have objects. They are very useful sections to have in legislation because they are like a mission statement that has some legal status. The Australian Labor Party believes these objects should be part of this proposed Act. Object (a) is to provide protection and conservation of terrestrial, marine and aquatic environments of Western Australia. It is very similar to that which is embodied in both this Bill and the parent Bill but it is not spelt out as precisely as we have done with this amendment. Similarly, the Government says in many of its statements and documents that it is promoting ecologically sustainable development. That term is used a lot but there is not much commitment in government legislation to the principles of ecologically sustainable development. Such matters are extremely important for a Bill like this when we are looking at the new Department of Conservation and the use of our conservation resources and enabling the split of the Department of Conservation and Land Management to provide for the new Forest Products Commission.

These matters are important because all the land is vested in the Conservation Commission. The commission and the department will play a very significant role in creating management plans. If they are not based on ecologically sustainable development, down the track we will encounter the problems we have at the moment. It is a very important principle to have in the Bill. We believe it needs to be in the objects at the front of the Bill, so that anybody reading it knows that this principle is taken seriously and will be implemented. Similarly, the minister has mentioned that we will have a new biodiversity Act, which will impinge on the Conservation and Land Management Act. We believe that a statement about the importance of conserving biodiversity again needs to be in the objects of the Bill to highlight that the State is committed to doing it.

Part of object (d) relates to statements that have been made to us recently, that we are the only State in Australia that does not specifically mention Aboriginal people when looking at the management of our national parks and conservation estates. The Bill, when referring to the members of the Conservation Commission, makes reference to either an Aboriginal person or somebody with expertise in this area. However, Aboriginal people, particularly in the north of the State, believe that this is a major oversight and have requested that we put in these parts (d), (e), (f) and (g) to highlight the fact that Aboriginal people have a role to play which needs to be taken more seriously. I understand that the minister met recently with the executive director of the Kimberley Land Council and that the director was very pleased with what went on at the meeting. I am not privy to what took place at the meeting but I believe that Aboriginal people have taken some heart from whatever it was the minister said. We now call on the minister to act on that and to look at considering these objects and to particularly look at a cooperative relationship with Aboriginal people. We are aware that CALM employs Aboriginal rangers, that it has other Aboriginal people on its staff and that it does good work, but we believe that this object is needed.

Mr RIEBELING: I add my voice to the argument that the member for Maylands has articulated. It is important in modern Acts to set out their objects, so that in years to come when bureaucrats are administering the Act, the intention of the Parliament when the legislation was passed is quite plain. The trend in modern legislation is to have objects. This is vital in the area of conservation as it is an ever growing area of concern for the majority of Western Australians. In the past three or four years there has been a major shift in the thinking of the people of Western Australia about the importance of the environment and providing legitimate protection of natural resources. I cannot see any reason the minister would object to having these objects in the legislation if the reason for splitting CALM into forest management and conservation is to enhance the conservation side of the equation, as was indicated in the Press.

It is also important for the ability of the department to carry out its functions properly to have a definition such as that in (a) relating to aquatic environments. Most people see Fisheries WA's main objective as the exploitation of the marine environment. Many people, especially amateur fishermen, see it as equally vital that the protection of the environment should be a major concern of government. At the moment the only department that appears to be in the business of doing anything for the marine environment is Fisheries WA. Much of the funding for that department comes from the fishing industry. Therefore there is a perception, albeit from amateurs, that the department's preference is for the exploitation of the aquatic environment rather than protection.

As the member for Maylands has indicated, Aboriginal people in the north of the State have a special interest in ensuring that the land that is so delicate even though it is so harsh is properly managed environmentally. In my view the further away from Perth one gets, the closer Aboriginal people are to the land.

In the Pilbara region of Western Australia, a large number of the Aboriginal people still have an affinity with and respect for the land that means they have a tribal responsibility to maintain the environment, and they take that responsibility very seriously. I found when I lived in the Kimberley that the further north one gets, the closer that connection with the land appears to be; and the Aboriginal people in my area back that up with regard to their responsibility.

Mrs EDWARDES: I do not disagree with some of the comments that members opposite have made about objects clauses in Bills, and it is true that when new pieces of legislation are developed, they often have an objects clause at the beginning. However, we are amending an Act that was developed in the days when it was not the normal practice to incorporate an

objects clause, and what would otherwise have been incorporated as objects can be found throughout this legislation as the functions of the Forest Products Commission, the Department of Conservation and the Conservation Commission. For example, section 33(1)(d) of the Conservation and Land Management Act states that the department is responsible for the conservation and protection of flora and fauna throughout the State.

Clause 19(1)(c) of the Conservation and Land Management Amendment Bill states that the functions of the Conservation Commission are to develop policies for the preservation of the natural environment, for promoting the appreciation of flora and fauna, and to achieve or promote the objects that are referred to in section 56(1). Under clause 19(1)(h), the commission is to advise the minister on ecologically sustainable management. Therefore, what the member wants to achieve by the objects is achieved as part of the functions. If at some future time we were to have a major overhaul of the Act -

Mr Riebeling: You do not consider this a major overhaul?

Mrs EDWARDES: Not at all. This Bill is focused primarily on the restructuring and separation of the functions of the Department of Conservation and Land Management to allow the new bodies to begin to play their proper role. The commitments under the Regional Forest Agreement mean that we will need to incorporate some other amendments - for example, with regard to Aboriginal people - and Mr Peter Yu has met with Dr Wally Cox, and we will see what we can incorporate into our legislation, because I understand the comment that we are the only State that does not have those commitments in the Bill, and we will be doing that. However, this is not necessarily the occasion on which to do that.

The member for Burrup referred to the marine area. The function of the Marine Parks and Reserves Authority is the conservation and management of marine parks. We are in the process of completing the transfer of Jurien into a marine park, and that matter is about to go out for further public consultation. Therefore, it is not true to say that nothing is happening.

Mr Riebeling: I did not say that.

Mrs EDWARDES: I am sorry; I misunderstood what the member was saying about Fisheries being the only department that was doing any work in that area. We have that level of responsibility. While I do not disagree with what the member is seeking to do by incorporating an objects clause, those objects are incorporated throughout the Bill in the form of functions, and when we have a major overhaul of the whole Act, it may then be appropriate to incorporate an objects clause. We do have a commitment to Aboriginal people under the RFA, and we will be looking at bringing in amendments in the next round to incorporate their level of involvement.

The ACTING SPEAKER (Mr Sweetman): All of the amendments have now been consolidated into a single document marked "A".

Dr EDWARDS: While I accept some of the things the minister is saying, there is an inconsistency. This Act is now 15 years old, and the difficulty is that in this area, things change. I believe we are missing the opportunity to put in objects that reflect what is taking place in this new world in 2000. An example is bioprospecting. That is a new area into which the State, with a lot of careful thought, is moving. Aboriginal people have a lot of interest in that area. They may have knowledge that we do not have, and the experience has been that traditionally Aboriginal people have used some bushes, herbs and shrubs for medicinal-type purposes. The reality is that there is sometimes a grain of truth in that use, in the same way that there may be a grain of truth in what our grandparents used when we had a fever or another illness. A wisdom can be transmitted that is not always scientifically obvious but needs investigation. As the minister said, it will be some time before we review the parent Act. We are missing an opportunity to not put objects into the Bill to highlight where we are going in this modern world, because although we now have some changes that deal with conservation and forest management and that mention key words like ecologically sustainable management and biodiversity, without an objects clause it is not clear where we are trying to go. The first part of the proposed objects clause deals with conserving the environment, ecologically sustainable development and the conservation estate. The second part of the objects deals with the role that Aboriginal people can play. I am sorry that the government will not support this amendment, because an objects clause would make this a much better Bill

Mr RIEBELING: It is amazing that the minister is saying this is not a major review when the department is to be split in half and substantial, if not major, changes are being made to the Act to accommodate the inconsequential change to the department that the minister has indicated is now taking place. In my comment about Fisheries WA, I was trying to say that at the coalface or where people have contact with the marine environment, Fisheries WA is actively involved in the exploitation of the resource. An example is Point Sampson, where thousands of tonnes of fish are extracted by trawlers annually. The Dampier Archipelago marine environment is under CALM's control; let us call it a marine habitat area. Fishermen I speak to may be wrong when they say that trawling is having an adverse impact on fish stocks in the marine environment under CALM's protection.

This amendment states that an objective of this department is to protect the aquatic environment; therefore, the public may have some confidence that a major government department has an objective to protect fish stocks and the like for our children in years to come so places like the Burrup Peninsula will not become devoid of fish stocks. I know of no marine scientist who indicates that fish in the Dampier Archipelago are born, bred and live in the archipelago for their entire existence. Strong argument is made that most of the breeding takes place in areas outside CALM's protection area; namely, those subject to massive exploitation by Fisheries WA. Amateurs in my area have no confidence that Fisheries WA is managing that fish stock well. In fact, the reverse is the case.

My humble view is that the next environmental battlefield after the logging issue is eventually put to bed - the minister may not agree - will be the aquatic environment. The current battle over logging will be yesterday's battle, like that over whaling. The next battlefield will be fish stocks and the amateur fisherman's ability to extract reasonable fishing through the demise of fish trawling.

The new department should have a major objective to have a say in the level of exploitation and the management of the marine environment. That objective may not be one which the minister wishes to adopt with Fisheries WA versus her department; nevertheless, it is a role the department will have to take on within the next five years, like it not.

Mrs EDWARDES: I refer first to a couple of comments by the member for Burrup. The Conservation and Land Management Act does not control Fisheries WA only. When considering marine environments, for instance, the Act also provides under section 26B the functions of the marine authority. Section 26B(1)(b)(i) is not just an object, as it outlines the following major policy function -

> to preserve the natural marine and estuarine environments of the State.

It is not just the marine reserve areas. The Government has already indicated that the Dampier Archipelago will be considered as a marine reserve. The committees have already been established to work in that region. Natural and recreational reserves are already in and around that region. The member has indicated a problem which I will have investigated.

The fundamental problem of incorporating objects as the member proposes is that he has not been through every section of the CALM Act and every amendment provided in the Bill before the House to see whether the objects are reflected, are inconsistent or otherwise dealt with already. One could not draft a series of objectives, throw them in at the beginning of the measure and forget the rest of the Act. It will be appropriate to incorporate such provisions when we undertake a major review or overhaul of the Act.

The member can have confidence that his object is incorporated in the functions of the Act. Some of the other aspects involving indigenous people will be incorporated in the next round of amendments as a result of the commitment to the Regional Forest Agreement. I accept that these amendments before the House are substantial changes. Nevertheless, they do not represent a major review of the entire Act. The department does other things than forest management. Although these are essential changes, they are limited primarily to forest management.

Mr RIEBELING: I hear the minister's comments on the fisheries part of the Department of Conservation and Land Management. I would appreciate an outline of the financial emphasis the department applies to ensuring the marine environment is sustainable. If it is substantial, it certainly is not directed to the north. This aspect may already be covered in the Act - I do not doubt it - but I am sure all members of Parliament representing a coastline would agree that huge conflict already exists between conservation in the amateur fishing area and the professional fishing industry.

At meetings I attend involving a conflict between two departments or two sections of our community, one rarely has a third player involved with CALM representing the protection of the environment. I had the misfortune to attend a meeting not in relation to fishing but concerning the placement of a hotel in the Karijini National Park near one of the major gorges. The role of the department at that meeting was to promote the location of the hotel in a sensitive area. I wondered why the proponents of that development had not bothered to turn up. After half an hour, it was apparent that the department was representing the proponents of the development. That type of management, when on the side of development, does not always fit well with environmental protection. I have yet to see the department play a major and active role in ensuring that the marine environment and the inland environment of the Pilbara is protected. To create a set of objects, albeit one that does not pick up every object in the Act, would more sharply focus the minds of people in the department on what I think are the major objects. The amendment moved by the member for Maylands encapsulates what members on this side of the House believe should be the objects; they are quite focused. It may well be that, within a short period, the member for Maylands, as the minister, will be drafting those anyway. However, at the moment, if the minister wishes to amend this to include other objects, I am sure the member for Maylands would agree that other objects should be included. Members on this side of the House believe that these objects are important, so that any reader of the new legislation, whether that person be from the community or from the department, is clear about where the focus should be; that is, the protection of the environment and sustainable exploitation where that is possible.

Mrs EDWARDES: All ecotourism proposals for Karijini were consistent with the management plans for that region. The member mentioned some other areas which have fisheries, etc. It would be appropriate that we organise a briefing for the member with the appropriate people in that area, or even here in Perth. I will provide the member with the information, and that offer is genuine if the member wants to take it up.

Returning to the objects, it is not a simple matter of throwing in some words, which are split up into seven objects, without going through the whole of the Act and all of the amendments that are before the House. One should not create potential inconsistencies with matters that are or might be contained within the Act. This may well be a matter that we will examine when we undertake the overhaul of the Act.

Mr Riebeling: Do you agree with these objects?

Mrs EDWARDES: I agree that legislation is currently drafted by placing objects at the beginning of an Act. It helps to focus people's minds. The intent of the objects and what they can achieve is incorporated in the functions. That is the way the Act has been drafted. If the Opposition wants to change that, it is not just a matter of throwing a whole stack of objects

in the front of the Act; one must go through the whole of the Act. Although we agree with the member's sentiment in incorporating objects, it should be left to a full review of the Act.

Mr RIEBELING: I thank the minister for that answer, although I disagree with what she said about the timeliness, I suppose, of putting in the objects. The Act that we are amending is some 15 years old. As the minister knows, in the past 12 months the position within the State has changed dramatically. The department has been split. If nothing else, that is a substantial change. Which of the objects listed in the member for Maylands' amendment does the minister think are worthwhile? I have read the amendment, and knowing how the Bill was originally crafted, I think the amendment encapsulates what the minister has been saying about the newly reshaped department. I would like the minister to put on record to which of those objects she has an objection. The suggested objects are broader than those in many other departments. I do not think that they would be inconsistent with the Bill the minister is promoting. I would appreciate a quick answer from the minister about which of those objects, if any, are inconsistent with the Bill. Apart from the proposed future changes in relation to Aboriginal people, the first five objects are consistent and give a broader overview of the operations of the department that the minister herself is promoting.

Mrs EDWARDES: I only received a copy of these amendments prior to the consideration in detail stage. I have already pointed out the areas in which I have been able to ascertain that the intent of the objects is already incorporated as part of the functions in the Act or in the amendments which are presently before the House. I am legally trained but there would be no way that I could say, without a considerable amount of work, that those objects would not be inconsistent with any one or more sections already in the Act or in the amendments. I suggest to the member that one cannot simply list seven objects and then expect them to be incorporated. One needs to go through each section and to look at it in light of the functions, activities and powers which are incorporated in the Act or in the amendments to ascertain inconsistencies or otherwise in those objects.

New clause put and a division taken with the following result -

Ayes (16)

Mr Carpenter	Mr Graham	Mr Marlborough	Mr Riebeling
Dr Constable	Mr Grill	Mr McGinty	Mr Ripper
Dr Edwards	Mr Kobelke	Mr McGowan	Mrs Roberts
Dr Gallop	Ms MacTiernan	Ms McHale	Mr Cunningham *(Teller)*

Noes (26)

Mr Ainsworth	Mrs Edwardes	Mr Marshall	Mr Shave
Mr Baker	Dr Hames	Mr McNee	Mr Trenorden
Mr Barnett	Mrs Hodson-Thomas	Mr Minson	Dr Turnbull
Mr Bloffwitch	Mr House	Mr Omodei	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mr Osborne	Mr Wiese
Mr Court	Mr Kierath	Mr Prince	Mr Tubby *(Teller)*
Mr Cowan	Mr MacLean		

Pairs

Ms Anwyl	Mr Board
Mr Brown	Mrs Holmes
Ms Warnock	Mrs Parker
Mr Bridge	Mr Pendal

New clause thus negatived.

Clause 3: The Act amended -

Mrs EDWARDES: I move -

> Page 2, line 5 - To insert after "(2)" the phrase "and section 53".

That section must be cited because clause 53 has since been added to the Bill through the amendments to the Constitution Acts Amendment Act and the Financial Administration and Audit Act.

Dr EDWARDS: Clause 3 of the Bill states -

> The amendments in this Act (other than in section 50(2)) are to the *Conservation and Land Management Act 1984**.

Does that refer to the current CALM Act?

Mrs Edwardes: Yes.

Dr EDWARDS: Is that the part which refers to the executive director entering into transactions?

Mrs EDWARDES: The clause states "the amendments in this Act (other than in section 50(2))". That is a clerical error in the reprint and it will be changed by the Clerk to section 51(2), which is in the transitional provisions.

The ACTING SPEAKER (Mrs Hodson-Thomas): I have authorised that clerical alteration.

Mrs EDWARDES: Clause 51(2) is just before the transitional provisions, which deal with the enactments, and the enactments mentioned in the table are amended by making deletions. Section 53 must be incorporated into that, which is clause 53 under the transitional provisions.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 4: Section 3 amended -

Dr EDWARDS: I will make a couple of comments moving sequentially through the Bill and then I will move an amendment. We are happy to see "biodiversity" defined and we like that definition. We are also satisfied that the definition of "biodiversity components", which refers to habitats and ecological communities, is also in this Bill, and that is an important step. On the next page of the Bill, under the definition of "forest produce", the definition of "forest products" is inserted. We are told that the definition of "forest products" is the same as in the Forest Products Bill; that is, it includes trees, parts of trees, timber, sawdust, chips etc. We are also told that, following on from the definition in the Forest Products Bill, when something under that definition has been removed under a contract or an arrangement, any residues that remain are not forest products for the purposes of this Bill. Is anything that remains not a forest product? I am not sure whose responsibility that would become. Does that conflict with the definition of "forest produce"? There was a story in the *Sunday Times* in which a man from Collie argued that a lot of waste was left on the floor of the forest. He argued that that waste could be used as firewood or perhaps for higher value purposes. I am trying to ensure that there is no loophole. It appears to someone who is not a lawyer, and to other people who have been assisting me, that there is a potential for substantial trimmings from logs to be left and not to be considered as forest products and, therefore, not to be used productively.

Mrs EDWARDES: The department will not allow a situation whereby anything which is not part of a contract will not be taken. We are equally concerned about the amount of residue left on the ground. Currently, the department is looking at how that can happen more efficiently. Members will notice that over the past six or so months there have been expressions of interest to endeavour to clear up the residue for the best possible value adding. Clause 4(2) of the Forest Products Bill states -

> When something referred to in subsection (1) has been removed under a contract or arrangement entered into by the Commission, any residues that remain are not forest products for the purposes of this Act.

The contractor must take all that he is required to take under the contract. That does not stop the department from entering into another contract or having a range of contracts for that residue. The concern of the member is that it should not be left there and not incorporated. It refers to those people who enter into a contract taking what is in their contract. Anything which is left over can then be the subject of another contract or a series of contracts.

Dr EDWARDS: If what remains is not defined as "forest products", who becomes responsible for it and who becomes responsible for that contract? I appreciate that this relates to the Forest Products Bill, but the definitions from that Bill are in the Bill we are discussing now. It is still pertinent. My fear is that on first brush, there appears to be a loophole. If residue is left and it is no longer defined as "forest products" and the minister and the Government want to ensure that it is used productively - I guess the best way to do that is to have a contract - who is responsible for that and who would have the contract? Under the normal scheme of things, presumably it is the Forest Products Commission. The way in which the CALM Act will be amended will mean that the executive director does not have the same powers he used to have. I do not think he could enter into a contract even if it were commercial.

Mrs EDWARDES: I will have the matter which has been raised by the member investigated, because we believe the residue comes under the Forest Products Commission and if it is not forest products, it becomes forest produce. If it becomes forest produce, it comes under the CALM Act. However, at the end of the day, we want the contracts for residue to be dealt with by the Forest Products Commission. We will recheck that that is as we and the member understand it will happen between those two definitions.

Mr RIEBELING: My understanding of the proposed legislation - unfortunately I am not as knowledgable in this area as is the member for Maylands - is that the taking of firewood from our native forests, for instance by people who live in the country around our timber industry, is not illegal as long as they do not chop down trees. How would one go about legally taking firewood from our forests? Would it be through the Forest Products Bill or would it be under licence from CALM? It is not actually product as determined by a contract, because the ownership of that product would be with the overall licence to take the timber. I am more interested in Joe Bloggs who lives in Nannup and wants to get some wood for his woodchip heater.

Mrs Edwardes: He cannot cut down trees for wood.

Mr RIEBELING: Clearly he is not allowed to cut down a tree, but branches fall -

Mrs Edwardes: Can we move away from the Forest Products Bill and get back to the Conservation and Land Management Amendment Bill?

Mr RIEBELING: Proposed subsection (2)(d) refers to firewood. I would like an explanation of that, because presumably

there is a reason for mentioning it. I understand what it means in relation to chopping down a tree, but I am more interested in the gathering of wood in a forest.

Mrs EDWARDES: I would like to keep this Bill and the Forest Products Bill separate. I know overlaps will occur from time to time and this issue has come up because the definition of "forest products" is the same in this Bill and the Forest Products Bill. However, "forest products" includes firewood. Firewood is also defined under the Forest Products Bill but that does not include firewood that under the CALM Act -

> may be removed by members of the public from an area set aside under that Act as a public firewood area or maybe used on a campfire or barbeque in the immediate vicinity of a camping area or picnic area.

CALM has a responsibility in the areas of conservation reserves, nature reserves and all areas where that level of protection is necessary and which, under the Forest Products Bill, members of the public can still access.

Mr Riebeling: Can members of the public go onto CALM land or land that comes under the department's control to pick up firewood that has fallen off trees, for instance, without a licence?

Mrs EDWARDES: No.

Mr Riebeling: Do they need a licence to do it?

Mrs EDWARDES: Yes.

Mr Riebeling: That is the answer - licensing of people who are not going to chop down trees for the collection of firewood, but who will gather firewood is through your department.

Mrs EDWARDES: Generally, yes. However, as identified under the definition of firewood, some areas are set aside as areas whereby members of the public can collect public firewood and it is free.

Dr EDWARDS: I move -

> Page 4, after line 10 - To insert the following -
>
> **"principles of ecologically sustainable forest management"** means -
>
> (a) decision making processes should effectively integrate both long term and short term economic, environmental, social and equitable considerations;
>
> (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
>
> (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
>
> (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
>
> (e) improved valuation, pricing and incentive mechanisms should be promoted.

This definition comes from the Environment Protection and Biodiversity Conservation Act 1999, which is a federal Act that covers these issues. The Opposition thinks it is critically important that this definition be inserted in the Bill at this stage. We are aware that the Government has commissioned reports on this issue and that to all intents and purposes it is arguing that it is following this set of principles. However, in light of its functions, it is important that the Conservation Commission looks at this area. Part of its function is to oversee the forest management plans; therefore, obviously these principles should be in the back of the minds of those involved so that these issues are properly considered in the decision making process and the advice that is given.

It is noted that paragraph (b) of the definition deals with the precautionary principle. The debate in the House yesterday demonstrates that at times we need to use the precautionary principle because we are all called upon to make decisions and we do not always know what the long-term ramifications of those decision will be. Tied in with that is the notion of inter-generational equity - that the decision we make now should not affect the prosperity and enjoyment of life of people in future generations. Another important aspect is the notion of improved valuation, pricing and incentive mechanisms. This is important because, in the many briefings and discussions we have had leading up to debate on these two Bills, the whole issue of royalties and pricing was raised. What was discussed initially is different from the final result. We understand why that is so. It is important that the Conservation Commission has an awareness of that. We are charging it and the Department of Conservation and Land Management with looking after a resource on which, it is fair to say, the community now puts much more value than it did in the past. That is apparent in relation to forests, but the community also puts more importance on broader conservation issues than it did in the past. We ask the Government to support this amendment.

Mrs EDWARDES: The Government supports the principles of ecologically sustainable forest management. With the agreement of members opposite we will take some time to examine the amendment to ensure it is aligned with the standard definition and the definition within the Regional Forest Agreement. We will then seek to recommit at the end of the consideration in detail stage and incorporate some principles.

The ACTING SPEAKER: The minister can move to postpone clause 4 and deal with it after the other clauses are dealt with.

Mrs EDWARDES: We wish to deal with other amendments to clause 4 at this stage. Can we complete them and recommit?

The ACTING SPEAKER: Yes.

Dr EDWARDS: I seek leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr EDWARDS: I refer to the definition of "public water catchment area" at page 4 of the CALM Bill, to be inserted into the CALM Act. The issue of public water catchments is very important, as I think was highlighted during the problems with Sydney water a number of years ago. Obviously there is considerable overlap because some water catchments are within the CALM estate, so to speak. When Sydney examined its water problems, a statement was made about the "primacy of drinking water quality protection". Is the notion of the primacy of drinking water quality protection considered in enough detail both in this definition and further on under the role of the Minister for Water Resources in relation to the development of forest management plans?

Mrs EDWARDES: The catchments in Sydney and Western Australia are different. In Sydney they incorporate both developed and undeveloped areas; whereas ours are pristine catchments allowing us the ability to monitor the quality of water.

Mr RIEBELING: I refer to definition (12) "royalty". I understand that will be called a charge.

Mrs Edwardes: The paying of royalties will not be done under the CALM Act; they are in the Forest Products Bill. Forest royalties will no longer be my responsibility.

Mr RIEBELING: Will a royalty apply under the minister's jurisdiction other than through the charges to be made under the Forest Products Bill? I would like to know how the charges will be determined.

Mr Omodei: Charges for what?

Mr RIEBELING: Charges, rather than royalties. I understand they will be determined by a number of different criteria such as the cost of preparing advice.

Dr EDWARDS: Royalty does not appear to be defined in the CALM Act. It says "Royalty includes stumpage". How is royalty defined? I reiterate the question asked by the member for Burrup. Does CALM undertake activities other than those in the timber arena from which it receives a royalty?

Mrs EDWARDES: The definition for the purposes of charging a "royalty" is the cost of managing the forest for the purposes of timber production. Forest produce charges apply to sand, gravel, wax etc.

Mr Riebeling: Is firewood included?

Mrs EDWARDES: That incurs a fee. Royalties apply under the Wildlife Conservation Act to fauna, which is predominantly for the kangaroo industry, and aviculture, and to flora for the commercial wildflower industry. They amount to relatively small sums of money. For the year 1998-99 fauna royalties were $61 071.85 and wild flora royalties were $2 979.50. They are determined on a full cost recovery basis.

Mr RIEBELING: What is the difference between charges and fees?

Mrs Edwardes: It is the difference between licences and royalties. I suppose if we are talking about collecting firewood, for instance, currently a licence would be required.

Mr RIEBELING: Is that determined on the basis of the actual cost of providing that or the management of the forest?

Mrs Edwardes: Yes, it is.

Mr RIEBELING: Does it mean that all these activities which the minister's department will determine via fees and charges, will be cost neutral to the department?

Mrs Edwardes: Yes, it will.

Mr RIEBELING: Firewood is not my only interest, although I seem to be speaking about it a lot.

Mrs Edwardes: Particularly in Burrup, there is not much need for it.

Mr RIEBELING: We used to have a forest in Burrup about 100 000 years ago.

Mr Omodei: About the time of the dinosaurs.

Mr RIEBELING: The ice age wiped the last one out, so it was probably 100 million years ago. There is not a great deal of forest in my electorate now; however, I have relatives and friends living throughout the State and I am interested to know how the products from the forests are managed. How many fees are collected in relation to firewood? The minister may be able to tell us if many people collect firewood for a living, other than by cutting down the trees. The old industry for

firewood was predominantly carried out through chopping down trees, and I understand that will be covered by the new department. The scavenging for firewood is licensed under the minister's department. Is that done as an industry, or just by Joe Bloggs collecting wood at the weekend? How big is the industry, if there is one? I understand the need for firewood, and I am interested to know what role the department will play and the magnitude of that industry. I also understand the major component of that industry will be dealt with in the forest products legislation.

Mrs EDWARDES: Firewood as an industry will come under forest products. Those who wish to collect firewood for personal use may go to designated areas in the forest, and it is free.

Mr Riebeling: How big are they?

Mrs EDWARDES: I do not have the figures with me and I do not know how much is recovered. If people want to collect wood outside the designated areas, they must have a licence. That is for conservation reasons. I do not have a figure for the fees. The member earlier mentioned full cost recovery, and I said there was full cost recovery for all of these matters. However, I failed to mention one major exception; there is certainly not full cost recovery for national park fees.

Clause put and passed.

Clauses 5 to 8 put and passed.

Clause 9: Section 17 amended -

Dr EDWARDS: I move -

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

This relates to a situation where a timber reserve can effectively be cancelled, amended or altered. Under the current situation the Minister for the Environment creates, amends, alters or cancels a timber reserve, and under the new arrangement set out in this Bill the Minister for the Environment continues to create but -

> with the concurrence of the Minister for Forest Products, may, subject to this section, recommend to the Governor that an order be made to give effect to the proposal, and thereupon the Governor shall by order published in the *Gazette* give effect to the proposed cancellation, amendment or alteration.

I believe the words "with the concurrence of the Minister for Forest Products" are too strong and they should be replaced with "after consultation with the Minister for Forest Products". My argument is that there would be valid reasons for the Minister for the Environment to alter, cancel or amend a particular reserve. My fear is that the provision gives the Minister for Forest Products a veto over a decision made by the Minister for the Environment, when the whole point of the Bill is to vest all those lands in the Conservation Commission to make sure their conservation status is protected. That ethic should flow through to the decision making.

My proposed amendment seeks to remove the requirement for concurrence and replace it with consultation. We have many debates in this place about the meaning of "consultation"; good consultation means listening to and taking account of what another person says. It is more appropriate in these circumstances for consultation to take place where the Minister for Forest Products could express any concerns and the Minister for the Environment could listen to those concerns. It is too heavy-handed to require concurrence from the Minister for Forest Products, and I would prefer consultation to be substituted.

Mrs EDWARDES: The previous subclause deals with marine reserves.

Dr Edwards: I am aware of that and we had that debate.

Mrs EDWARDES: Under that provision, the Minister for Fisheries and the Minister for Mines need to give their concurrence to the Minister for the Environment for cancellations, amendments or alterations.

Under the proposed new section, the Minister for Forest Products will have an interest in timber reserves. Therefore, it is appropriate and consistent with the rest of the legislation for the minister to have a concurrence role in progressing change to the timber reserves included under the Conservation and Land Management Act.

Mr RIEBELING: I am somewhat concerned that the concurrence of the Minister for Forest Products is needed as well as that of the Minister for Fisheries.

Mrs Edwardes: Not for timber reserves.

Mr RIEBELING: The Opposition's amendment would give Environment a paramount place in decisions affecting the environment in which we live. I thought that the Minister for the Environment would have applauded our endeavour to give her the ultimate say in protecting newly discovered, rare species or fauna. My understanding is that we are talking about a situation in which a rare type of animal or plant is discovered in land that is likely to be logged. The minister charged with the protection of the environment then makes the decision that the plant or animal needs protection and that it is worthwhile protecting it. She will need to go to the minister, whose main job is to chop down trees, to convince him not to chop down the trees on that particular plot. If he does not concur, the trees will be chopped down.

Mrs Edwardes: That is a different section.

Mr RIEBELING: The Opposition wanted to raise this matter earlier but the minister advised that the correct time to talk about it was during the debate on clause 9. The member for Maylands then desisted from debating this issue. The minister said that clause 9 is the correct part of the legislation in which to debate the consequences of the ministers' actions.

Does the need for concurrence relate to the exemption of plots of land earmarked for logging in which rare flora and fauna are found? Does the concurrence, as it is specified in the legislation, relate to those sorts of decisions? My concern is that such concurrence may not be forthcoming. What will happen to that rare and endangered species? Will logging take place because the Minister for the Environment cannot get concurrence, or will she have an overriding say? The use of the word "concurrence" makes it appear that she will not have an overriding power. The concurrence power will be a power of veto for the Minister for Forest Products. Even if the Minister for the Environment strongly believes that such land should be conserved, the plot would be lost if the Minister for Forest Products disagreed. Is my understanding wrong, and if so, how?

Dr CONSTABLE: I support the amendment for a number of reasons. In general, it goes to the heart of the concerns that many people have about this Bill. The term "with the concurrence of" means the two ministers must agree. That immediately conjures up in my mind some real difficulties and raises important questions. If the two ministers must agree, what will happen if they do not? Will the Minister for the Environment explain that in some detail and perhaps provide some examples of what might then happen? The use of the word "consultation" in the Opposition's amendment recognises the need for the Minister for Forest Products to be involved in the process and gives him ample opportunity to have an effect on that process, while still maintaining the premier role of the Minister for the Environment. The amendment considerably strengthens the role of the Minister for the Environment. She should be happy it has been moved because it recognises her position. The term "with the concurrence of" again raises the issue that the Minister for the Environment and the Minister for Forest Products are responsible for two quite different sets of values; that is, conservation values on the one hand and commercial forestry values on the other. This amendment begins to separate those two sets of values and moves away from the conflict. As it stands, the clause maintains the conflict that exists between the two sets of values. The amendment overcomes that.

Mrs EDWARDES: As the Minister for the Environment, I have responsibility for a number of Acts. The Conservation and Land Management Act is one of those. However, the paramountcy of the Minister for the Environment is set out in the Environmental Protection Act. Anything done by departments, agencies or individuals throughout Western Australia that will have an impact on the environment is subject to the Environmental Protection Act. The question of paramountcy lies with the Minister for the Environment under that Act. The comment was made that if the Minister for Forest Products does not agree, he will continue to chop down that area of forest contained within the timber reserve. That is not necessarily the case for two reasons. Many timber reserves throughout the State are not subject to the forest management plan. I know of one in the Peron Peninsula. Many timber reserves have nothing to do with the forest management plan. Any change to the proposals contained within the plan is subject to referral under the Environmental Protection Act. As such, the level of environmental assessment and consideration by the Environmental Protection Authority, together with the paramountcy the Act provides to the Minister for the Environment, will overcome some of the concerns members have about any changes that are likely to happen as a result of a lack of agreement. If a change has the potential to impact upon the environment, it cannot happen without first being referred to the Environmental Protection Authority.

Mr RIEBELING: Perhaps I was not very clear, but my concern is about those bits of land that are currently earmarked for logging under the forest management plan. For instance, when something rare is discovered in those bits of land, the environmentalists make approaches to the Minister for the Environment because it needs protection. As I understand the legislation, to protect that rare plant or animal, she will need to get the concurrence of the Minister for Forest Products to not log that area. If he does not give that concurrence and he disagrees absolutely, I want to know what will happen to the land. Will it be logged because he cannot give concurrence or will there be a freeze? If there is a freeze on the decision to log, where is that in the legislation? It is a vital part of the power that the Minister for the Environment should have, so that for those areas that have been earmarked for logging, there is not that absolute power of veto which there appears to be from what the minister has said.

Mrs EDWARDES: Those areas which are and have been agreed to be logged are contained in the forest management plan which goes out for full public consultation as well as full environmental assessment. Conditions are laid down in accordance with how any logging should occur under the plan. In the event that what the member is talking about is rare flora, fauna, endangered species, water quality and a number of other things, that may or may not happen. The forest management plan already contains provisions on how that should be dealt with. It does not need any protection or strengthening in this clause. The matter would need to go back to the Environmental Protection Authority. Therefore, the sorts of protections the member is talking about and how they should be dealt with are in the forest management plan. Even if the member felt that it was not the case, there is always an opportunity for that reference back. It is not a right of veto. As the members for Churchlands and Maylands have referred to it, it is an agreement. A right of veto is a totally different matter.

Mr RIEBELING: I consider there is a power of veto. If concurrence must be given and one side does not give it, what else is it? If the ministers must come to agreement for negative action to occur in the minister's role in conservation as compared with the chopping down of trees, it is a power of veto. If the minister cannot get concurrence, what happens? That is the bottom line. Is there a mechanism? I heard the minister say that there are steps under the forest management plan. If at the end of the day that process leads to a concurrence being achieved, tell us that, but my understanding of the clause is that to stop a group of trees being logged, the minister needs the concurrence of a minister whose primary role is to extract timber from the forest. I have no argument with that role. This minister's role is to ensure that the rare flora and fauna that

occur in our forests and are ever decreasing have an element of protection. If concurrence must be achieved and either of the two ministers would never agree to that, it is a power of veto.

Dr CONSTABLE: I would like to repeat a question I asked. If the ministers cannot come to an agreement and there is no concurrence, how does the minister resolve that? I followed the minister's previous answer but I am still not clear. It is the core of the concerns that have been expressed to me.

Mrs EDWARDES: I apologise for not answering that in the first instance. Where there is no agreement between the two ministers, there is provision for the matter to go to Cabinet and therefore ultimately the Governor. Before that situation is reached, a series of steps in the process would need to be taken. I have outlined the steps that would need to be taken before any change was made to the forest management plan. The matter would go back to the Environmental Protection Authority in any event. That already exists or is envisaged under the forest management plan. That would be the second step. There could always be a referral to the Conservation Commission. A number of safeguards are in place whereby something endangered or rare could be protected. That is covered by the paramountcy of the Minister for the Environment under the Environmental Protection Act. The reason I say it is not a right of veto is that technically anybody who has a right of veto makes a decision.

Mr Riebeling: Somebody does that by an action, by not agreeing.

Mrs EDWARDES: Concurrence means agreement. It does not give one or other the right to veto.

Mr Riebeling: If one refuses to come to an agreement, it is different.

Mrs EDWARDES: The member for Churchlands asked for similar sorts of examples as may occur today. For instance, in many areas where decisions need to be made by the Minister for the Environment, there are bodies referred to under the Act as decision-making authorities or DMAs. Local councils, the Department of Minerals and Energy, the Water Corporation or a whole series of different agencies may seek agreement for conditions that need to be applied to particular environmental assessments. The member for Maylands knows that, because I write to her on a regular basis referring to an EPA report and saying it is not final. If we run through the rest of the steps, it is, and perhaps has been many times, the case that agreement has not been able to be reached in respect of some of these areas. Under the Environmental Protection Act I have made a decision on the conditions and/or the particular outcome of the assessment.

Mr Riebeling: That is after consultation.

Mrs EDWARDES: No, under the Act the word is "agreement". That is already in place and practice, and it is in other legislation as well. It does not cause the concern the member is envisaging. It operates on a day-to-day basis in other areas and is nothing new to the process of government.

Mr RIEBELING: The minister is saying that if concurrence is not reached, it does not matter; the minister can move on and protect an endangered group of trees or small animals.

Mrs Edwardes: The matter would be required to be referred to the Environmental Protection Authority.

Mr RIEBELING: Is that for its determination?

Mrs Edwardes: It is for its assessment.

Mr RIEBELING: Would its assessment override the non-concurrence of the Minister for Forest Products?

Mrs Edwardes: It is an independent body and its reports are released publicly and are subject to appeal to the Minister for the Environment. That appeal period is for 10 days, or longer if so determined. Subject to that appeal, the Minister for the Environment can either agree or disagree with the Environmental Protection Authority's decision.

Mr RIEBELING: After that process, can the Minister for the Environment ultimately make the decision without concurrence?

Mrs Edwardes: If it is a substantive change - such as those under the forest management plan or changed conditions - or one involving any impact on the environment, it is referred to the EPA under the EP Act.

Dr CONSTABLE: It seems that disagreement will lead to a messy, drawn out process. Can one get out of the maze? I have a couple of concerns. What the minister has described, and the need for agreement between the two ministers, will compromise the independence of the Conservation Commission's advice to the minister on many occasions. That is a great concern. When something is shunted off to the EPA for advice, will we still ultimately need the concurrence of the two ministers? Then what happens? Will we still need the concurrence of the Minister for Forest Products and the Minister for the Environment even after the EPA has provided advice?

Dr EDWARDS: I have further concerns relating to the comments of the member for Churchlands. The minister is reassuring us that, as it stands, the minister responsible for CALM is also responsible for the environment. With forest management plans or changes in reserves predicted through forest management plans, a proper process is undertaken. The EPA is involved and we then have concurrence. My concern is that the Minister for the Environment may not always be responsible for the Conservation and Land Management Act. In that case the minister responsible for CALM cannot have the primacy of the EP Act when wearing that hat. If an issue is not a forest management plan, but involves other reserves - for example, sandalwood areas in other parts of the south west - which are not in timber management plans, what will

happen? It is an issue requiring EPA involvement only if it is known that the proposal has such importance that it must be referred to the EPA. My fear is that we may create a situation in which the ministers confer, but the proposal never hits the public arena and does not become a proposal for EPA consideration. I take no comfort from the answers given.

Mrs EDWARDES: To some extent, confusion has arisen as a result of the comments of the member for Burrup about those areas under the forest management plan, as against timber reserves, which are different. We are talking about state forests as opposed to timber reserves, although some timber reserves are in the forest management plan. We are mostly considering areas outside the forest management plan. Most of the areas to which the member refers are state forest, not timber reserves.
Mr Riebeling: I'm not necessarily talking about them.

Mrs EDWARDES: The member diverted to the logging of trees. The Forest Products Commission is also required to harvest according to ecologically sustainable forest management - ESFM - principles. Therefore, anything that will impact on the environment will be considered by both the Minister for the Environment and the Forest Products Commission.

The member for Churchlands asked what will happen when no agreement is reached. If there is to be a change or impact of any shape or form, it can be referred to the Environmental Protection Authority. It can be referred by anybody; it need not be referred by the Minister for the Environment. The member for Maylands said that concurrence could be done quietly behind the scenes. That similarly cannot happen. Anybody can refer a matter, as members are aware, to the EPA for its consideration and assessment. If we cannot achieve concurrence after all that process, and I want to vary, cancel, amend or alter the timber reserve for some reason - for instance, for a nature reserve - despite the EPA's involvement, I can place conditions on that timber reserve.

Dr Edwards: How do you have the authority to do that?

Mrs EDWARDES: Under the EP Act. Therefore, although nothing may alter the status of that area, whatever is needed can be protected by the authority of the Act.

Dr Edwards: Presumably that would apply as well if the two ministers were separated. It would have gone to the EPA with some environmental conditions which the Minister for the Environment sets. They would be attached.

Mrs EDWARDES: That happens today when the Minister for Water Resources and the Minister for the Environment are different persons; therefore, conditions are laid down by the Minister for the Environment. The same applies with the Minister for Mines as the Minister for the Environment lays down the conditions. That is normal practice.

The member for Churchlands asked what will happen to the timber reserve's alteration, revocation or cancellation if concurrence is not achieved. Nothing will change. However, the protection given comes through the Minister for the Environment in the condition arising from the EPA assessment of that proposal.

Amendment put and negatived.

Clause put and passed.

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

Dr EDWARDS: Clause 10 is a new division which sets up the Conservation Commission of Western Australia. The first part deals with its establishment, and then the functions of the commission are laid out. Its establishment is pretty straightforward. I move -

> Page 9, lines 20 to 21 - To delete "ecologically sustainable management" and substitute "management in accordance with the principles of ecologically sustainable forest management".

Mrs Edwardes: This is linked to the Opposition's amendment to clause 4 which related to the principles of ecologically sustainable forest management. We may revisit that, because if we incorporate a definition of ESFM, there will be other consequential changes.

Dr EDWARDS: The reason for moving the previous amendment and this amendment is that the term "ecologically sustainable management" is neither defined in the Bill that we are discussing nor in the original Act. The argument I have run before is that we all agree on the notion of ecologically sustainable management, but we want it spelt out in more detail so that we know what we are talking about and those principles flow through the decisions that will follow as a result of this Bill. I seek the minister's guidance.

Mrs Edwardes: If you withdrew this amendment, we would deal with clause 4, including the definition of ESFM and all the consequential amendments that with flow from that, at the end of the consideration in detail.

Amendment, by leave, withdrawn.

Dr EDWARDS: Another amendment the Opposition has circulated, but at this stage will not move, deals with functions of the Conservation Commission in proposed new section 19(1)(i), which is to advise the minister on production and harvesting on a sustained yield basis of forest produce throughout the State. Sustained yield is a term that relates to production rather than conservation. The Opposition believes there may be a potential conflict between a reference to sustained yield in proposed new section 19 and references to ecologically sustainable management in the other parts of the Act. We foreshadow that, depending on what the minister does with our earlier amendments and if this is not resolved, we

may move in the other place an amendment to delete the words "on a sustained yield basis" and substitute "in accordance with the principles of ecologically sustainable management". We understand the purpose of the clause and that one of the functions of the commission as set out is to advise the minister on the production and harvesting on a sustained yield basis of forest produce. However, we are concerned about the wording, and believe the words that we are foreshadowing are better words. We urge the Government to listen to the amendments we are putting forward and where possible to make these amendments, so that at the end of the day we get a better Bill and Act.

Ms McHALE: I acknowledge the process that we are following by deferring the amendments foreshadowed by the member for Maylands. However, they are critical amendments and are essential to understanding the principles behind this Bill. Will the minister explain, in the absence of a definition, her understanding of ecologically sustainable management? That will help us when we come to the debate on the principles of ecologically sustainable management.

Mrs EDWARDES: The member for Thornlie was not in the Chamber when I talked about the principles of ecologically sustainable management. The Government supports those principles and the Montreal principles. It is considering whether the words as drafted in the Opposition's amendments - given I only received them this morning - are in accordance with that standard definition and what we have agreed to under the Regional Forest Agreement. If they are, we will incorporate them. Our principles will be in accordance with the Montreal principles.

Dr EDWARDS: Proposed new section 19(2) states, in part, that for the purposes of proposed new section 19(1), vesting in the commission does not limit the functions of the department. What does this mean in terms of the roles of the Conservation Commission and the new Department of Conservation? My suspicion is that the department is still very much the manager of the lands, and that the commission has an advisory role. Most of the functions set out in proposed new section 19(1) are to advise, recommend, consider and assess, and it seems that day-to-day management remains with the department. Can the minister clarify that?

Mrs EDWARDES: The commission's role concerns the high level functions such as vesting, planning, policy, and auditing. The department implements what the commission determines.

Dr EDWARDS: Proposed new section 19(5) sets out the role of the Conservation Commission and its relationship with local government. Can the minister give us more information about that? The Opposition welcomes the fact that written into the Bill is that the Conservation Commission will inform local government of decisions that will affect local authority land. Is there anything in the Bill that would effectively bind the Crown on activities being undertaken by the Department of Conservation? I give as an example a complaint I received from a local government authority in which the Department of Conservation and Land Management has developed a caravan park within a local government authority, and did not abide by some of the local government regulations because it had the shield of the Crown. That creates a lot of tension. On paper at least, this is an advance, because local government is informed of any such proposal. Does the change go far enough when it says that it affords local government a reasonable opportunity to make submissions and will local government have its voice heard well enough with this proposal?

Mrs EDWARDES: Proposed new section 19(6) states that subsection (5) applies to any proposal to establish a new state forest, timber reserve, national park etc. It has nothing to do with the example to which the member for Maylands referred. It provides that, when the Conservation Commission creates a national park, a conservation park or whatever, it must consult with the local council and go through the submission before it advises the minister.

Dr EDWARDS: I move -

Page 13, after line 15 - To insert the following -

20A. Principles on which Commission is to act

(1) In the performance of its functions under this Act the Commission must take account of -

(a) the precautionary principle; and

(b) principles of ecologically sustainable development.

(2) In the application of the precautionary principle, decisions should be guided by -

(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and

(b) an assessment of the risk-weighted consequences of various options.

(3) In this section - the **"precautionary principle"** means where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(4) In this section - the **"principles of ecologically sustainable development"** means -

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

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

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

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

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

The Australian Labor Party moves this amendment as it believes it is important for the Conservation Commission, the prime body in the State which will deal with conservation issues, to have a set of principles to guide its actions and decisions. Although we moved a similar amendment previously, on balance, this issue is so significant that it must be debated now so that these principles for the commission to abide by are inserted in the Bill. Given the fact that the amendments we sought previously, which spelt out some of these definitions, were defeated, and that the bodies of many Acts, including federal Acts, now incorporate much of this detail, the minister must consider incorporating these details into the Bill. We ask the minister to insert these principles now so that anyone appointed to the Conservation Commission will be aware that the commission has a great deal of power but has also been directed by Parliament to abide by principles which we hold in high esteem.

Mrs EDWARDES: The Government is obviously considering incorporating the principles of ecologically sustainable forest management into the Bill. The principle of economically sustainable development is a different concept in the context referred to by the member. I do not believe, in incorporating the principles of ESFM, that we should go as far as incorporating the ESD principle in the Bill. However, in considering the incorporation of the nciple, I will also consider incorporating the ESD principle in the Bill. I will explain the reason for my thinking.

The Government is in the process of drafting amendments to the Environmental Protection Act, which amendments will be brought into the House this year. Like the amendments to Acts in other States, our amendments will incorporate a number of new definitions. Those definitions include the principle of environmental policy, the precautionary principle, the principle of intergenerational equity, the principle of conservation of biological diversity and ecological integrity, principles relating to improved valuation, pricing and incentive mechanisms and the principle of waste minimisation. These principles will have primacy in the Act and therefore will very much bind the Crown. The question I must consider is if we are to incorporate the ESFM principle - which is important and we will check the words of that for incorporation - whether it is appropriate to simultaneously include the ESD and the precautionary principle in this Bill, as opposed to including them in the overriding Bill, the Environmental Protection Act. At first blush, they will probably be far more effectively incorporated in the Environmental Protection Act as it will bind the Conservation Commission.

When members talk about the forest management plan, they should bear in mind that the plan already incorporates the precautionary principle as a condition which, again, links back through the Environmental Protection Act. It is probably far more important and appropriate for the ESD and precautionary principles to be incorporated in the Environmental Protection Act as they will strengthen the commission's requirements. However, we are definitely considering the incorporation of the principles of ESFM in the Act.

Mr CARPENTER: I support the amendments. We have arrived at a very important point. The Australian Labor Party is seeking to outline in specific detail the principles on which the Conservation Commission will act so that the commission is not left to make inferences or draw upon references in Acts that apply to other organisations or bodies, or to interpret and apply principles which might be embedded somewhere else in the legislation. The member for Maylands, by her amendment, is laying out a template by which the commission is expected to perform its duties and to arrive at its decisions. We would have a reasonable expectation that this type of template would be embedded directly in the legislation. The minister should think carefully before deciding not to support these amendments as it may send the wrong signal to people who are already cautious about the direction in which we might be going after the enactment of this legislation and about which authority will have the power or capacity to outweigh other organisations.

With this amendment, we are simply saying that the Conservation Commission must have guiding principles by which it would arrive at decisions and which would guide its thinking; these principles have been laid out in this amendment. If the minister rejects these principles, she will indicate that the kind of role and function that the Conservation Commission might fulfil will not be that which the people, who adhered to the belief that the Department of Conservation and Land Management should be split up in the first place, want the Conservation Commission to fulfil. I strongly urge the minister to consider accepting and supporting these amendments.

Mrs EDWARDES: The member was not in the House when we discussed how the Environmental Protection Act provides for all acts and activities in Western Australia and therefore has a certain level of primacy. It is not just that the Conservation Commission must look to something else in another Act or to another body. The Environmental Protection Act covers the Conservation Commission and all its activities which are likely to impact on the environment. As such, what we are saying is that we will be incorporating the precautionary principle in the amendments to the Environmental Protection Act. That will bind the Crown but does not mean that the Conservation Commission cannot apply the principle in its decision making. It is different from incorporating the principles of ecologically sustainable forest management because they deal with forest management per se and are not broader like the precautionary principle and the principles of ecologically sustainable development. It is appropriate to incorporate that principle and we will be looking at the words which have been put forward by members opposite to see whether they are consistent with the Montreal principles and what has been agreed to under the Regional Forest Agreement. If they are, we will recommit the Bill to incorporate those

amendments. However, I encourage members opposite to think that the inclusion of the precautionary principle in the Environmental Protection Act gives it a stronger application than simply incorporating it into the functions of the Conservation Commission would.

Mr CARPENTER: The minister can correct me if I am wrong, but I understand the minister to be saying that it is unnecessary to adopt this amendment because the precautionary principle is embodied in the Environmental Protection Act.

Mrs Edwardes: Not at the moment. The Government has proposed amendments to that Act, we are publicly on the record. The amendments which have gone out for public consultation will define the precautionary principle as one of the principles of the environmental policy.

Mr CARPENTER: Therefore, ultimately the precautionary principle will be incorporated in changes to the Environmental Protection Act.

Mrs Edwardes: At the moment and until that time, the protection is already incorporated in the forest management plan.

Mr CARPENTER: My reading of the situation is the minister is saying it is unnecessary for us to put the principle into this piece of legislation.

Mrs Edwardes: It is a broader environmental policy definition.

Mr CARPENTER: Does the minster have any real objection to incorporating the principles of ecologically sustainable development in this legislation?

Mrs Edwardes: The member for Maylands moved an amendment to clause 4 to include the principles of ecologically sustainable forest management. We will be checking on the wording of that amendment and we will incorporate those principles. The principle of ecologically sustainable development is a much broader principle than that of ecologically sustainable forest management. Ecologically sustainable forest management is appropriate in this Act but I suggest that ecologically sustainable development is a broader environmental policy position.

Mr CARPENTER: I understand the point but there is a slight difference between ecologically sustainable development and ecologically sustainable forest management. However, I see no reason for the Government to have any hesitation about incorporating the precautionary principle in this piece of legislation. If the minister is saying that the precautionary principle will have authority over this legislation anyway because it will be enacted into the Environmental Protection Act, why not spell it out right here in a list of principles under which this commission must act? That is an eminently sensible thing to do with all government organisations - outline a series of principles by which those authorities should be expected to perform their duties. I do not see the possibility of another authority having this principle embedded into its legislation at some future stage as an inhibition to adopting the principle here. I do not see what the problem is; let us adopt this amendment about the precautionary principle and have it there in black and white relating specifically to this commission.

Mrs EDWARDES: The logic in the member's argument is that because it will apply under the Environmental Protection Act in any event, it should be incorporated into this Bill. The member would probably say it should be incorporated into whatever other Acts and we would need to include the definition of precautionary principle in the marine parks and reserves legislation, in the Fish Resources Management Act and in a wide variety of Water and Rivers Commission legislation.

Mr Carpenter: In fairness, we are dealing with the establishment of a new commission and a new piece of legislation. We are not talking about amending thousands of other pieces of legislation for existing organisations. We are dealing with the construction of something new.

Mrs EDWARDES: We were talking about the logic of what the member is proposing. The incorporation of the precautionary principle in the Environmental Protection Act will bind the Crown and, therefore, the Conservation Commission in its applications and is a policy which the Conservation Commission must take into account when making decisions. In the meantime, the principle has been incorporated into the conditions of the forest management plan and the Crown and Conservation Commission are similarly bound. Therefore, the protection the member wants is well and truly covered and covers any proposal, change or impact on the environment in Western Australia, whatever that activity may be.

Mr Carpenter: You are suggesting that historically this principle has applied to all those areas of government activity but there seems to be a lot of evidence that it has not. That is why we are here with this piece of legislation.

Mrs EDWARDES: No, the precautionary principle is already a condition of the forest management plan and needs to be taken into account in the application of that plan. We will be incorporating that principle into all activities which need to be referred to the Environmental Protection Act. That will mean that any activity which will have an impact on the environment will need to have the precautionary principle applied to it.

Dr EDWARDS: Following the same line of reasoning, I think we are talking at cross-purposes. It is not as though the Conservation Commission will be looking only at the timber estate. One of functions of the Conservation Commission is "to develop policies for the preservation of the natural environment of the State and the provision of facilities" but it is also to develop policies "for promoting the appreciation of flora and fauna and the natural environment". The Conservation Commission has a much broader role and it is critically important to have the notion of the precautionary principle in the Bill because the Conservation Commission is looking at the conservation estate of Western Australia and wanting to preserve it in the future. The commissioners' work is incredibly broad, they are not only looking at timber reserves but also

national parks and conservation parks and nature reserves; their ambit is very wide. I accept what the minister said about the other parts of the amendment - that they might be overtaken, or are not quite appropriate, or do not fit so well - but the section of this amendment dealing with the precautionary principle fits very well. The argument from the Government tends to make one think that it is only about timber whereas we want to apply the precautionary principle to all the considerations of nature conservation which the Conservation Commission will be picking up on.

Mrs EDWARDES: We accept the application of the precautionary principle to the decision making on all the broader areas which will be part of the function of the Conservation Commission. That is probably a reason for strengthening my side of the debate. Incorporating the precautionary principle in the Environmental Protection Act means anything which will impact on the environment throughout Western Australia will have to have the precautionary principle applied to it.

Dr Edwards: We are also talking about decisions they make which try to protect the conservation resources of the State in the future. The Environmental Protection Act may well not come anywhere near it. We are asking them to adopt a mind set.

Mrs EDWARDES: Anything that has to have the application of precautionary principle would be subject to the Environmental Protection Act and, as such, the Conservation Commission will be required to take it into account.

Amendment put and negatived.

Dr EDWARDS: Proposed new section 21 refers to the membership of the Conservation Commission. I move -

> Page 13, after line 21 - To insert the following -
>
> (2) Before making a nomination under subsection (1) the Minister shall publish in a daily newspaper circulating throughout the State a notice calling for expressions of interest in appointment to the office of Conservation Commission member.

Mrs Edwardes: The Government will accept this amendment.

Dr EDWARDS: To date, no mention has been made of advertising for the appointment of members to the Conservation Commission. Part II, division 1, section 7(3) of the Environmental Protection Act, states -

> Before making a recommendation under subsection (2) the minister shall publish . . .

The Opposition believes it is important that people know they can nominate for these positions. Advertisements published under the Environmental Protection Act result in a large range of people finding out about these positions, expressing interest and applying. In 1998 the Auditor General made the following comment about public sector boards -

> The Commission on Government recommended the use of selection panels for board appointments to assess applicants, conduct interviews, recommend preferred candidates and record the reasons for their decisions.

The Auditor General had good reason to look at the appointment of people to boards and committees because they perform important functions in this State. It is important that the Government spreads the net as far as possible to ensure that anyone with the skills, competency and interest comes on board. We welcome the Government accepting this amendment.

Mrs EDWARDES: It is a matter of practice and we will be advertising fairly soon, probably at the beginning of May, for expressions of interest or nomination to the commission. We will do that before the legislation is proclaimed in an endeavour to have both commissions up and running as quickly as possible after the legislation is passed.

Amendment put and passed.

Dr EDWARDS: Proposed new section 21 also refers to the knowledge and experience people need to be appointed to the Conservation Commission. Proposed subsection (3) reads as follows -

> (3) One member is to be a person who, in the opinion of the Minister -
>
> (a) has knowledge of and experience in Aboriginal cultural and Aboriginal heritage matters relevant to the functions of the Conservation Commission; and
>
> (b) is able to make a contribution to the functions of the Conservation Commission.

This provision is not strong enough to reflect the interests of Aboriginal people. I would be concerned that a non-Aboriginal person might be appointed who is perceived to have knowledge of and experience in Aboriginal cultural and Aboriginal heritage matters. Recently controversy has arisen among various anthropologists deemed to have expertise in this area. We need reassurance from the minister that the Government will appoint an appropriate Aboriginal person rather than someone who has a degree in this area or who has done some work for a mining company.

Mr CARPENTER: This is a most important issue. We could probably amend the legislation to require that the person described in proposed subsection (3) be an Aboriginal person; however, as we are not seeking to amend it, we want an assurance or direction from the minister that this person would be an Aboriginal person rather than someone who simply has knowledge of and experience in Aboriginal cultural and heritage matters. That is a matter of judgment rather than fact. We are seeking an assurance from the minister and some direction embodied in the debate that this person would be an Aboriginal person.

Mrs EDWARDES: It would be my intention to appoint an Aboriginal person to this position. The provision has been constructed in such a way that in the event no such Aboriginal person can be appointed, we have the opportunity to appoint somebody who has experience of Aboriginal matters.

Dr EDWARDS: I thank the minister for her comments. We hope that not only does the minister do that, but also that is reflected into the future. We considered amending the provision, but had some difficulty working out the exact wording. At this stage we have not moved an amendment, but we may well do so in the other place.

I also seek an assurance from the minister that there will be a balance of people appointed to the Conservation Commission. Proposed subsection (2) indicates that -

> members are to be persons who, in the opinion of the Minister -
>
> (a) have knowledge of and experience in -
>
> (i) the conservation or management of biodiversity;
>
> (ii) environmental management, including the management of the natural environment for use for recreational purposes; or
>
> (iii) the sustainable use of natural resource;
>
> or
>
> (b) have a particular function or vocational interest relevant to the functions of the Conservation Commission.

Part of the functions of the Conservation Commission include having vested in it not only conservation lands, but also timber reserves and other areas; therefore, it is possible to argue that there may well be a person from that industry sector who could be appointed to this commission. It would be an unusual person who met some of the other criteria. We have not tried to amend this provision in any way to make it sectorial or to right an imbalance, because we accept the argument that it should be opened up, we should advertise and hopefully appoint the best people for the job available at the time. Having said that, given that it will be the Government and the minister that make these decisions, the Opposition would like some reassurance that there will be a balance of members and a range of people who truly are able to perform the conservation role of the Conservation Commission.

Mrs EDWARDES: As the member for Maylands has indicated, I am committed to making sure that the best possible people are appointed to the Conservation Commission. The composition of the commission is highly critical and the role of the chairman will also be highly critical. We need to find a person who has the right level of integrity and credibility in order to ensure the community has confidence in the Conservation Commission. Therefore, we will make these appointments after a great deal of consideration. In terms of ensuring the breadth of experience necessary, we will be advertising as indicated and we will write to particular groups and organisations, such as the Conservation Council - indeed, I have already indicated to the council that I will do that - seeking their suggestions as to who might be appropriate for inclusion on the commission.

Debate adjourned until a later stage, pursuant to standing orders.

[Continued on page 5810]

ARDEN STREET, EAST PERTH, PUBLIC OPEN SPACE

Statement by Member for Perth

MS WARNOCK (Perth) [12.50 pm]: It is not every day that I find myself applauding and joining the Lord Mayor and Perth City councillors in taking up an issue in the City of Perth; indeed, we have sometimes notoriously found ourselves at loggerheads. However, on the issue of Arden Street in East Perth, I am with the residents and the councillors all the way. Indeed, like residents around the Arden Street area, I really believe the portion of public open space on the edge of Arden Street and a new East Perth development should remain as public open space. The East Perth Redevelopment Authority wants to redevelop that 1.17 hectare slice of land in Arden Street. The City of Perth owns it and does not want it compulsorily resumed. The city has said that it will not give it up. We share the view that it should be a foreshore park. The city will take the matter to the Government. The Minister for Planning has supported the East Perth Redevelopment Authority, and the council has asked him to reverse that decision.

I want to support most strongly the council in its endeavours. I once again urge the East Perth Redevelopment Authority to drop its planned resumption and to let the park remain. The area is already very heavily developed, and it will be more heavily developed in the future. It would be shortsighted to take away any more of that foreshore land. That is the residents' plea to the East Perth Redevelopment Authority and to the Government, and I join those residents today in making that plea most strongly. Let us leave that public open space; we will need it in the future.

SCHOOLS, NORTHERN SUBURBS

Statement by Member for Wanneroo

MR MacLEAN (Wanneroo) [12.51 pm]: Recently the Minister for Education had the pleasure of visiting Kinross Primary School in my electorate. At the school's assembly, the minister announced that a middle school, catering for years 6 to 10,

would be built in Kinross and a senior campus would be built in Mindarie to cater for years 11 and 12. These two schools, costing $15m each, will further enhance the educational standing of the northern suburbs by providing an innovative approach to how students make the transition from primary school to high school. The minister also announced that a school in houses would be developed as an off-campus site for Clarkson Primary School to open by term two next year. Together with North Quinns Rock Primary School, which will open next year, these developments will ease the pressure of growth that all schools in the northern suburbs are currently experiencing. These announcements also show the commitment to education that this Government has to the fastest growing area in Australia, which is Wanneroo. This commitment is reflected in the number of new schools that have been built in Wanneroo since the Government took office. I am pleased to have been involved in securing many of these schools since I have been the member for Wanneroo and as a member in the other place. I would also like to thank all those people who have put so much time and effort into the local area planning structure that has been so important in securing these two new schools for the northern suburbs.

POPE'S NOSE BRIDGE

Statement by Member for Burrup

MR RIEBELING (Burrup) [12.53 pm]: I wish to bring to the attention of the House events that occurred on 7 March of this year during the passing of a cyclone through an area known as Pope's Nose Bridge in my electorate. Unfortunately, a young toddler was killed on that bridge. It reinforced the problems that the people of Point Sampson have with the quality of that bridge and the need for it to be replaced. This Government has said that funds will be committed in the 2000-01 budget for the completion of that bridge and for making it safe, and also for three other bridges. The concern of the people of Point Sampson is that between now and then this bridge needs to be made safe through the provision of Give Way signs because of similar experiences to those at Carnarvon with only one vehicle being allowed on the bridge, and also to ensure that the problems caused by the passage of a cyclone do not mean that the budgetary imperatives of fixing the Pope's Nose Bridge are removed and given to another community project. Therefore, I want to get on record from the minister - I have written to him - a continuing commitment to fixing the Pope's Nose Bridge and, of course, the other bridges which isolated this young child from medical assistance because of Karratha and Point Sampson being blocked off from each other.

HOCKEY COMPLEX, MANDURAH

Statement by Member for Dawesville

MR MARSHALL (Dawesville - Parliamentary Secretary) [12.55 pm]: Community sport and recreation facilities funding in which sporting complexes are funded one-third by local government, one-third by the community and one-third by the Government, has proved a bonanza to sport in Western Australia. Take the new $1.2m hockey complex at Halls Head in Mandurah, for instance. Three years ago the new synthetic surface, the same as that being used at the Sydney Olympics, was laid and lights were erected, and now a new sporting pavilion is being built. When fully completed this hockey complex will be the best regional hockey facility in Western Australia. Having a top hockey centre has enabled the game to flourish in Mandurah. The number of junior teams has increased from 11 to 26; men's teams from six to 19; and women's teams from six to 16. Over 1 000 people are now playing hockey at the centre, with two youngsters moving to the classic league in Perth. They have the form to expect an Olympic future.

Top facilities attract top teams. A touring Japanese youth team and the Korean national women's side have played at the stadium. National competition matches include the WA Thundersticks versus the Queensland Barras and the women's WAIS Diamonds versus the Tasmanian Tigers. A Korean men's team will contest a pre-Olympic match at Mandurah in September as part of the Festival of Sport promotion, which embraces six teams and caters for over 500 athletes.

Sport has the ability to attract visitors to country regions and in time the Mandurah hockey stadium will be as important to Mandurah as the Leeuwin concert is to Margaret River.

PARLIAMENT HOUSE, SECURITY

Statement by Member for Armadale

MS MacTIERNAN (Armadale) [12.57 pm]: I use this opportunity to raise concerns about the after hours security arrangements at Parliament House. Most members think that Chubb Security has the contract. Wrong! The guards wear Chubb uniforms but Chubb Security have subcontracted the job so it can cut pay and conditions even further. Our security is in the hands of a one man outfit - Daylight Security - which operates out of a residential address in Girrawheen. I have cause to doubt their competence to take on this job of great responsibility.

Staff have been summarily sacked because the boss wants to take over their rosters himself. The turnover of staff is huge: Those keeping their jobs are subject to unbelievably unfair workplace agreements which appear to be written by someone who has a reading age of eight years.

This security firm now has access to all our offices. We need to have the highest standards of probity and professionalism. Do they? Recently one night, I found this card on the floor in the corridor. It lists the security codes of all offices including those of the Premier, Deputy Premier and Leader of the Opposition. Not only that, Labor members report growing levels of theft of money and office equipment from their offices. The obsession with contracting out and cost-cutting in this vital and sensitive area puts us all at risk.

SURFING PROMOTION

Statement by Member for Joondalup

MR BAKER (Joondalup) [12.58 pm]: I would like to use this brief opportunity to inform members about a new sporting club promoting surfing for fun and the longboard surfing style on surfboards of eight feet or longer.

The Mullaloo Longboarders Club was formed in February of this year and its executive has close links with the very successful Mullaloo Surf Life Saving Club. Mullaloo Longboarders Club members are predominantly middle-aged men who have been surfing for many years and fall within what is generally described as the veterans or golden oldies class. This new club is the fourth longboarders club in WA and is affiliated with Surfing WA. The club already has approximately 40 members. The club invites special surfing guests to its monthly meetings and in March it invited state and national longboard competition judge Steve Greybrook to give members a few pointers on competition rules and board sizes and their relationship to styles and manoeuvres that can determine the points awarded during competitions.

The club will be hosting its own club competitions, surfing for fun days, and surfing safaris up and down the west coast and is actively seeking new members.

In closing I thank president E. Hunt, secretary Gary McCormick, treasurer Gavin Holt, social director Peter Clark and competition coordinator Ray Carter for having the drive and enthusiasm to establish this important new club in Perth's northern suburbs.

Sitting suspended from 1.00 to 2.00 pm.

[Questions without notice taken.]

RAIL FREIGHT SYSTEM BILL 1999

Ruling by the Speaker

THE SPEAKER (Mr Strickland): I must give a ruling on the Rail Freight System Bill.

Legislative Council message No 50, received yesterday, requests the Legislative Assembly to make amendments to the Rail Freight System Bill. The amendments requested would amend the Government Railways (Access) Act to take the functions of the regulator under that Act from the person holding the office of Director General of Transport and place them in a new office to be established and called the Western Australian Independent Rail Access Regulator. The requested amendments require public service officers to be appointed or made available to enable the regulator to perform his or her duties, but in addition there is power for the regulator to engage persons under contracts for services to provide such assistance as the regulator considers necessary. It is clear that these provisions are appropriating provisions.

Section 46 of the Constitution Acts Amendment Act allows the Council to request the Assembly to make amendments in certain circumstances. I will not go into the overall questions of the interrelationship between subsections (2), (3) and (4) of the section, as it is sufficient for the purposes of this ruling that the Council has made a request. Section 46(4) states -

> The Legislative Council may at any stage return to the Legislative Assembly any Bill which the Legislative Council may not amend, requesting by message the omission or amendment of any item or provision therein: provided that any such request does not increase any proposed charge or burden on the people. The Legislative Assembly, may if it thinks fit, make such omissions or amendments, with or without modification.

Under the proviso in the section, it is necessary to determine whether the Legislative Council's requested amendments would increase the burden upon the people; in other words: Is there an increased appropriation?

I note that when the Government Railways (Access) Act passed through this House, it did not need a message from the Governor as it simply imposed additional duties on an existing officer. The requested amendments establish a new office and leave it open to the regulator to use existing staff and to appoint new and additional staff.

It is possible that the office of regulator and assisting staff will be filled entirely by existing public servants, which might be funded entirely from an existing appropriation for the Director General of Transport, but that is not mandatory and the House should proceed on the basis of what the proposed amendments allow rather than guessing at administrative action that might be taken after the provisions have passed. Accordingly, I believe that the requested amendments provide for an increased appropriation. As the Council has no power to make such a request, I rule it out of order. In passing, I note that in looking at some requested amendments in the past, it could well have been successfully argued that one or more offended section 46(4) but no point was taken at the time.

MR BARNETT (Cottesloe - Leader of the House) [2.39 pm]: The Government clearly accepts your ruling, Mr Speaker, and I acknowledge that your reasons are correct; that is, the message from the Council would have effectively amounted to requesting appropriation. As such it is a money Bill matter and breaches section 46(4) of the Constitution Acts Amendment Act. In response to that, the Government will proceed to establish the Office of Rail Access Regulator through separate legislation introduced, as it should be, through this House.

MR COWAN (Merredin - Deputy Premier) [2.40 pm]: It is not my intention to canvass your ruling, Mr Speaker, but I need to advise the House that this transfer of responsibility from the Director General of Transport to a regulator is not necessary for the enabling legislation to proceed. I serve notice on the House that the amendments contained in the request from the

Legislative Council, which you, Mr Speaker, have ruled out of order, will form part of legislation that will be introduced into this Parliament as a separate Bill. If necessary, the Bill will be treated as a matter of urgency because we understand that a regulator is very necessary in the rail industry. We are prepared to treat it as separate legislation to ensure that your ruling is adhered to.

The SPEAKER: I think the Deputy Premier just got away with making an explanation without seeking leave. Nevertheless, the point is taken.

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 1999

Consideration in Detail

Resumed from an earlier stage.

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

Debate was adjourned after the clause had been amended.

Dr EDWARDS: At page 14 of the Bill reference is made to certain persons not eligible for appointment. The proposed section contains two paragraphs referring to the people not eligible to be appointed. They include executive directors within the Department of Conservation or members of the Conservation Commission. Reference is also made to a commissioner, general manager or member of the staff of the Forest Products Commission. The Opposition is concerned that the situation is still open for a person with an interest in the timber industry to be appointed. Therefore, I move -

> Page 15, after line 3 - To insert the following -
>
> (c) has a production contract, or has a material personal interest in a company or business which has a production contract, with the Forest Products Commission.

This amendment will also be moved with respect to the Forest Products Bill. When speaking at a seminar some weeks ago about the Conservation and Land Management Amendment Bill and the split up of the Department of Conservation and Land Management, the minister said that anybody in the timber industry who had a contract with CALM or with the Forest Products Commission would be ineligible for appointment to the Forest Products Commission. The Opposition would like the Bill to be amended to that effect, so that it is absolutely certain. There is also merit in the argument that people who have those types of contracts should not be appointed to the Conservation Commission. The minister has given an assurance about the type of person likely to be appointed to the commission, we have no assurance in the letter of the law that there will not be this potential conflict of interest if somebody with a contract is appointed to the commission. I urge the Government to support the amendment.

Mrs EDWARDES: The Government supports the intent of the amendment, and I am finalising a slight change to the wording. I move -

> That the amendment be amended by inserting the word "current" before the word "production" where it first occurs, the word "material" and the word "production" where it occurs a second time.

The new paragraph would read -

> has a current production contract, or has a current material personal interest in a company or business which has a current production contract, with the Forest Products Commission.

Dr EDWARDS: That amendment to my amendment is acceptable to the Opposition.

Amendment on the amendment put and passed.

Amendment, as amended, put and passed.

Dr EDWARDS: I refer to proposed section 24 at page 16 of the Bill under the heading "Minister may give directions". The Opposition does not believe it is appropriate for the minister to direct an advisory body whose functions include auditing and advising on sustainable forest management. The Opposition wants to delete this proposed section and replace it with a similar section from the Environmental Protection Act, which would declare the independence of the Conservation Commission and its chairman. The Opposition has been through the functions of the commission and, as has been discussed in some detail, it will advise, monitor or audit. It is not operational and, therefore, it does not need to be directed by the minister. I move -

> Page 16, lines 8 to 16 - To delete the lines and substitute the following -
>
> **24. Independence of Commission and Chairman**
>
> Subject to this Act, neither -
>
> (a) the Commission; nor
>
> (b) the Chairman,
>
> shall be subject to the direction of the Minister.

Mr Omodei: Why do you want a minister then?

Dr EDWARDS: I did not catch that. Obviously it refers to the minister in charge of this Act, because that is what we are discussing; indeed, the proposed section is headed "minister". The argument has been put and I do not need to reiterate it.

Mrs EDWARDES: The Government does not support the amendment. Section 26C of the Conservation and Land Management Act provides -

> (1) The Minister may give directions in writing to the Marine Authority with respect to the exercise or performance of its functions, either generally or in relation to a particular matter, and the Marine Authority shall give effect to any such direction.

Accordingly, it is included in the annual report and, therefore, open and transparent.

Amendment put and negatived.

Dr EDWARDS: Proposed section 26AC refers to the review of the Conservation Commission and provides -

> (1) The Minister is to carry out a review of the operations and effectiveness of the Conservation Commission as soon as is practicable after the expiration of five years.

Is this a rolling review or a one-off review after five years? Is it envisaged that other reviews will be undertaken every five years, as I believe is provided for in other legislation?

Mrs EDWARDES: It is a one-off review after the legislation has been in operation for five years.

Clause, as amended, put and passed.

Clauses 11 to 13 put and passed.

Clause 14: Section 30 amended -

Dr EDWARDS: This clause amends section 30 by deleting "Public Service Commissioner" and inserting "Minister for Public Sector Management" with reference to determining the remuneration and allowances of the members of the Conservation Commission. Why has this been done and what generally happens in these circumstances? Will this amendment standardise the legislation, or is it being made for another reason?

Mrs EDWARDES: There is no longer a Public Service Commissioner, so the Minister for Public Sector Management will make those decisions.

Clause put and passed.

Clause 15: Section 33 amended -

Dr EDWARDS: Subparagraph (bb) refers to entering into a memorandum of understanding with the Forest Products Commission relating to the performance of the department's and the commission's respective functions and to any other prescribed matter. How will the MOUs be done? Will they be open to public scrutiny or input, and will they be publicly available?

Mrs Edwardes: They will be public documents.

Clause put and passed.

Clause 16 put and passed.

New clause 17 -

Dr EDWARDS: I move -

> Page 23, after line 23 - To insert the following -
>
> **17. Section 33B inserted.**
>
> New section 33B is inserted after section 33A -
>
> **33B. Principles on which Department is to act**
>
> (1) In the performance of its functions under this Act the Department must take account of -
>
> (a) the precautionary principle; and
>
> (b) principles of ecologically sustainable development.
>
> (2) In the application of the precautionary principle, decisions should be guided by -
>
> (a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment;

(b) and an assessment of the risk-weighted consequences of various options.

(3) In this section - the **"precautionary principle"** means where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(4) In this section - the **"principles of ecologically sustainable development"** means -

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

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

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

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

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

If this amendment is accepted, the department will be required to abide by the same principles. I will not go over the arguments again because we have had this discussion previously. If the Government refused to accept it previously, it is unlikely to do so now.

This legislation involves a major rejigging of a current department and gives it a very new role. It is important that the department and its staff be aware of these principles as they go about their work and make decisions. Although this Bill has its genesis in timber and forest issues, the department is looking at very broad conservation issues across the State. These principles are extremely important to the decision-making and stewardship roles the department has been given to protect our natural resources into the future.

Mrs EDWARDES: As I said before the luncheon suspension, we are incorporating into the Environmental Protection Act a broad definition of environmental policy which will include a precautionary principle; and that Act will automatically bind the department with regard to every single sphere of its decision making. Similarly, we are currently working through the principles of ESFM. The early advice I have received is that the wording is acceptable, and we will be working through with the House how we can incorporate that and whether we need to make any other amendments.

New clause put and negatived.

Clauses 17 to 19 put and passed.

Clause 20: Section 36 amended -

Dr EDWARDS: Section 36(2), which is to be repealed, requires the executive director to hold a degree or a diploma in a discipline relevant to one or more of the categories of land to which the Act applies. Why is it proposed to repeal this subsection? Does the minister think that either the previous appointee or the present acting person is too qualified? It is a bit unusual. I guess that when jobs of this nature are advertised, the qualifications that are required are fairly general, particularly these days when people qualify in one area - a bit like the minister - but gain other qualifications throughout their working life in different areas and may end up in a job that is quite different from the one in which they started. Can the minister give some explanation for this amendment?

Mrs EDWARDES: The member almost answered the question herself. We are looking, as always, for the best possible applicant, and we do not want to limit the choice of the best possible applicant by imposing the restrictions that are laid down in the Act. This amendment will provide greater flexibility.

Clause put and passed.

Clauses 21 and 22 put and passed.

Clause 23: Section 53 amended -

Dr CONSTABLE: I move -

Page 27, lines 1 to 22 - To delete the lines.

Many of us believe that for almost 15 years, a conflict has existed between conservation values and commercial forestry values. That conflict has been the subject of many comments during the second reading debate and also earlier today during consideration in detail. While I acknowledge that this Bill is an attempt to overcome that conflict, these lines have the potential to perpetuate that conflict. Proposed subsection (2) states that anything to be done by the Conservation Commission under this division in relation to a management plan for land that is state forest or a timber reserve is to be done by the Conservation Commission, or the Conservation Commission through the agency of the department, as the case requires, acting jointly with the Forest Products Commission. Similarly, proposed subsection (3) states that anything to be done by the Conservation Commission under this division in relation to a management plan for land that is or includes a public water catchment area is to be done by the Conservation Commission, or the Conservation Commission through the agency of the department, as the case requires, acting jointly with the Water and Rivers commission.

This is very worrying. The key to this problem is the term "acting jointly". I understand from the advice that I have received that the term "acting jointly" is very unusual in legislation. It is not defined in the Bill, and we need from the minister a considerable explanation of that term and perhaps some examples of how it will work in practice. The dictionary definition of "acting jointly" refers to things or people being joined together. When we consider the values that the Conservation Commission and the Forest Products Commission will, quite properly, need to uphold, it will be very difficult for them to act jointly, because their needs will be quite different. The Conservation Commission is charged with protecting conservation values in the State. By contrast, the Forest Products Commission is charged with protecting commercial forestry values, and we accept that. However, these two sets of values are often in conflict. If the Conservation Commission and the Forest Products Commission are to act jointly, it implies that at that some point they will be able to agree. I believe they will not be able to agree on a lot of things, and perhaps neither should they. Therefore, there is a real risk that this will not work, and that we are setting up a complicated process that will be difficult to understand, and where it will certainly be difficult for it to be accountable. The term "acting jointly" is fraught with danger and problems, because of the disparate values of the Conservation Commission and the Forest Products Commission.

Another reason that I am seeking to delete the lines is that proposed subsections (2) and (3) are not required. Clause 24 seeks to amend section 54 of the Act, which deals with management plans and how they are to be prepared, so there is some repetition between that clause and these proposed subsections.

The words "as the case requires" and "acting jointly" are very broad and difficult to define. I do not know what they mean; they may mean anything. They are nebulous terms, and I seek from the minister a detailed explanation of those terms.

Dr EDWARDS: I share the concerns raised by the member for Churchlands. I am not sure what "acting jointly" means. It may mean one thing to a lawyer who reads the Bill and a different thing to the people in the commission or the department who read that they are to act jointly when doing anything in relation to a management plan. I also have a concern about proposed subsection (2)(b), which refers to the Conservation Commission through the agency of the department, as the case requires, acting jointly with the Forest Products Commission. We understand that the Conservation Commission will have its own FTEs and functions, which will be very different from what we have at the moment with either the National Parks and Nature Conservation Authority or the Lands and Forests Commission. However, where the Conservation Commission does something through the agency of the Department of Conservation, the department will basically be very similar to parts of what is currently the Department of Conservation and Land Management. I wonder whether there is not a perception that this does not set up the new Department of Conservation, part of which is currently the Department of Conservation and Land Management, acting jointly with the Forest Products Commission. Although we know we have a commission, we also have staff of that commission, who may be 245 full-time equivalents, and certainly with recent changes, another 45 FTEs will be moved from CALM to the Forest Products Commission. First, I do not understand the meaning of "acting jointly" in its various manifestations; secondly, if "acting jointly" means that the people are literally acting jointly, I am not sure that there is not still an ongoing perception of a conflict when departmental staff, who are much the same at the moment, are working with current departmental staff, who will then be transferred to the Forest Products Commission. It is unclear what happens next when the Conservation Commission - or the Conservation Commission through the agency of the department - and the Forest Products Commission are acting jointly. It would be helpful if the minister could explain that in more detail.

Mrs EDWARDES: On page 27, proposed subsections (2) and (3) refer to the Conservation Commission or the Conservation Commission through the agency of the department, as the case requires. As I explained earlier, the Conservation Commission deals with policy - the high-level matters, vesting and so on. The Conservation Commission through the agency of the department deals with the detail - the actual implementation, etc. Under proposed subsection (2), "acting jointly" would be nothing more than working together on a management plan for land that is a state forest or a timber reserve; under proposed subsection (3), "acting jointly" relates to working together on a management plan for land that is or includes a public water catchment area. This falls under part V, division 1, headed "Management of plans", on page 66 of the Act.

Dr CONSTABLE: I am concerned about the possibility that we do not have a clear separation between conservation values and commercial forestry values. From the minister's explanation, I can only conclude that maybe the Government is not serious about separating those two sets of values. I believe the conflict will still remain if this part of the clause remains in the legislation, and people will continue to have a lack of confidence in the system that supposedly separates these two sets of values. I understand that that is really the core of the legislation. At best, this notion of "acting jointly" is maybe poor drafting, and, at worst, the Government is not serious about separating those two sets of values; it is a cosy relationship still left in this legislation. Many people who have been involved in the debate about commercial forestry and conservation

in the past few months want to see a clear separation. That is not what we have here. During the second reading debate, I was somewhat alarmed when the minister interjected on the member for Bassendean. I will read this because it needs clarifying. The member for Bassendean drew attention to the conflict of interest about which we have been talking during the past few minutes, and the minister interjected and said -

> There was a perceived conflict of interest. There was not a conflict in fact -

We are talking about the past 15 years -

> - because of all the checks and balances put in place. The perceived conflict of interest was that CALM was chopping down trees ad nauseam in an endeavour to raise funds to carry out its conservation mission.

That statement concerns me, and perhaps the minister would elaborate on it. For most of us, there is a real conflict of interest, and that conflict of interest is still within this legislation which is before us and which was meant to tidy it up.

Mrs EDWARDES: I will give an example of the sorts of matters that may require, for instance, the Forest Products Commission to work with the Conservation Commission and, through the Conservation Commission, with the department. The issue of fire comes to mind, particularly if the Conservation Commission is responsible for fire control for the Conservation Commission and the Forest Products Commission. We have state forests, national parks, nature and conservation reserves and the like. The management of land could not possibly be undertaken without the Conservation Commission and the Forest Products Commission working together in an endeavour to have the prescribed burning plans carried out and to implement long-term fire management plans. It is our intention that that should be under the control of the Department of Conservation, using its manpower, resources and the like, primarily because it will have the greatest amount of land vested in it. As such, that is the appropriate course. However, there will be a need for fire control and/or management under the Forest Products Commission, and that will be carried out on its behalf by the department.

Dealing with the comment made by the member about an interjection I made during the second reading debate, there is no way that the department could have cut down more than was prescribed under the forest management plan. That is what I meant when I referred to the checks and balances that are in place. That forest management plan had to go out to the public. It was assessed by the Environmental Protection Authority, conditions were placed on it, and it is to be reviewed on a five-yearly basis. The perception that the department could have cut timber in an endeavour to obtain royalties to pay for its conservation arm ignores the checks and balances within the system.

Amendment put and negatived.

Dr EDWARDS: My question concerns the role of the Water and Rivers Commission. Proposed subsection (3) states -

> . . . as the case requires, acting jointly with the Water and Rivers Commission and any relevant water utility.

A case was presented to us a while ago when logging was undertaken in a catchment area that went close to streams and stream reserves.

In fact it resulted in turbidity in the water. We took this matter up with the Water and Rivers Commission through the minister. It acknowledged what we were saying and told us about protocols and procedures and said that it would not happen again. I would have thought that turbidity in the water was more of an issue for the Water Corporation as it was affecting the water supply. When there is more turbidity in a water scheme one has to add more chemicals and, presumably, for a utility, adding more chemicals, costs more money. This subsection states -

> . . . acting jointly with the Water and Rivers Commission and any relevant water utility.

Does that mean that it always includes the Water and Rivers Commission, and then it is up to it to include the relevant water utility?

Mrs Edwards: It depends who has control of the water catchment area.

Dr EDWARDS: If the Water Corporation or some local water utility had control of that catchment, it would definitely be involved. Would the Water and Rivers Commission also not be involved because of its general conservation of water responsibilities?

Mrs Edwardes: Yes; on behalf of its minister.

Dr EDWARDS: When do ministers become involved? As we read this section, it seems to be only between commissions and departments.

Mrs Edwardes: It is when we come to agreement.

Dr EDWARDS: Or when they do not come to agreement.

Mrs Edwardes: In every case when there is a water catchment area, the Minister for Water Resources would be involved.

Clause put and passed.

Clause 24: Section 54 amended -

Dr CONSTABLE: I will not move the amendment on the Notice Paper because it is very similar to the previous amendment

and addresses the same subject. I think it would have been more appropriate not to have the term "acting jointly", but to have had the term "in consultation". That is really what we are looking for and it preserves the primacy of the Minister for the Environment. "Acting jointly" implies that there must be agreement between the two and without that, they are not acting jointly. "Consultation" means that the views of the Minister for Forest Products and the Minister for Water Resources can be taken into account. However, the primacy role of the Minister for the Environment would be preserved.

Mrs EDWARDES: That leads on from some of this morning's debate on the Minister for the Environment's role in respect of the Conservation and Land Management Act and the Minister for the Environment's role in respect of the Environmental Protection Act. The Minister for the Environment does have primacy and will continue to have it. Nothing in this Act detracts from that.

Dr EDWARDS: The Opposition supports the member for Churchlands' comments on this clause. The term "acting jointly" has power struggle ramifications. We believe that it would be more realistic and positive for them to act in consultation with each other. It is obvious that the Forest Products Commission needs a role and that it will be spoken to and have input. However, we are still suspicious that the balance of power may shift. We have the suspicion that if there are nefarious characters and dreadful situations involved, this legislation may send the whole process backwards. This is set up so that land is vested in the Conservation Commission and conservation ethic underlies all decision making. If at the end of the day "acting jointly" does not work out and the Minister for the Environment is very unhappy with what happens, it is feasible that we could get an outcome that is potentially worse than that which occurs under the current system.

Clause put and passed.

Clause 25: Section 58 amended -

Dr EDWARDS: This clause describes how the executive director is required to provide a copy of submissions on a proposed management plan to the Forest Products Commission. Why is this in the Bill? It becomes incredibly detailed. Is this part of the "communication" and "acting jointly"? It is interesting that in other clauses the words used are "acting jointly" but in this clause the details are spelt out - it is almost like who is going to photocopy the submissions, which envelope they will put them in and whose desk they will arrive on! It seems a bit strange.

Mrs EDWARDES: It is to ensure that written submissions concerning proposed management plans are copied and given to the Forest Products Commission. We have not got down to providing in the Bill which officer will do that. It provides that anyone may make a written submission on a proposed management plan. It is part of the function of the Forest Products Commission to participate in the preparation of those management plans. In doing so it has the opportunity of receiving copies of the written submissions and becoming an informed participant in that process.

Dr EDWARDS: Presumably in some forest management plans, the Forest Products Commission and the Water and Rivers Commission or the Water Corporation or some other utility will be involved. How will that be managed? The way it is described in the Bill is as though the Conservation Commission is dealing on one hand with the Forest Products Commission, but at the same time, and maybe with the same plan, they are dealing with the Water and Rivers Commission and the Water Corporation. How does that all get filtered to the top? How is a conflict between water and forests, rather than between the Conservation Commission and someone else, resolved?

Mrs EDWARDES: We are getting into specific detail on how it will all happen. It happens on the drafting of management plans on a regular basis in any event. The management plan of a national park would involve the Water Corporation, other water utilities and all the other agencies that may have an interest in the management plan of that national park. It is a matter of sitting down and working through the respective issues. At the end of the day it comes to the ministers if there is no agreement between the respective agencies. That happens on a regular basis in a wide range of areas.

Clause put and passed.

Clause 26 put and passed.

Clause 27: Section 60 amended -

Mrs EDWARDES: I move -

Page 29, line 23 - To delete "and (2c)," and substitute ", (2c) and (2d),".

Dr EDWARDS: Will the minister explain that?

Mrs EDWARDES: It was an omission from the original Bill and the reprint.

Amendment put and passed.

Dr CONSTABLE: I move -

Page 30, lines 3 and 4 - To delete "and the Minister for Forest Products".

Page 30, line 5 - To delete "agree" and substitute "is satisfied".

Page 30, line 5 - To delete "effect" and substitute "consideration".

Page 30, line 8 - To delete "agree" and substitute "is satisfied".

Page 30, line 8 - To delete "effect" and substitute "consideration".

Page 30, lines 23 and 24 - To delete "and the Minister for Forest Products agree" and substitute "is satisfied".

Page 31, lines 3 and 4 - To delete "and the Minister for Water Resources".

Page 31, line 5 - To delete "agree" and substitute "is satisfied".

Page 31, line 5 - To delete "effect" and substitute "consideration".

Page 31, line 8 - To delete "agree" and substitute "is satisfied".

Page 31, line 8 - To delete "effect" and substitute "consideration".

Page 31, lines 19 and 20 - To delete "and the Minister for Water Resources agree" and substitute "is satisfied".

The current clause provides for the Minister for Forest Products and Minister for Water Resources to be given considerable power, which some people have interpreted as a power of veto, and others as a large degree of control over decisions over certain management plans. In effect, the Minister for the Environment and the Minister for Water Resources must agree that a proposed plan gives effect to any submission that the Minister for Forest Products puts forward. My amendments would delete "the Minister for Forest Products" so that the Minister for the Environment must be satisfied that the minister's submissions had been given consideration. That will change the tenor of the Bill considerably. I propose that the Minister for the Environment should have the prime position in these considerations, and not the Minister for Forest Products or in other cases the Minister for the Environment and the Minister for Water Resources acting jointly or having to agree before these plans can be signed off on. My amendments pay respect to the fact that the Minister for Forest Products in certain situations, and the Minister for Water Resources in certain situations, should have their submissions seriously considered. However, at all times, the Minister for the Environment would have the prime position in the final analysis. That is very important in this discussion about the longstanding conflict of interest between conservation values and commercial forestry values and we will once and for all separate those values and place the responsibility with the Minister for the Environment.

Dr EDWARDS: Without going over the matter again, the Opposition has raised its concerns about the roles of the respective ministers and the way it perceives they could act with the management plans. In some ways I see a difference between the role of the Minister for Water Resources and the Minister for Forest Products. The role of Minister for Water Resources covers the Water and Rivers Commission, the Water Corporation and other utilities, whereas the Minister for Forest Products covers just the Forest Products Commission. There will be instances similar to that to which I referred this morning in which a public catchment area will have not only water quality issues but issues that go well beyond the commercial aspects of the Water Corporation - even though the Water Corporation might say its primary purpose as a utility is to make a profit. There are differences between the products that these commissions deal with. I am not sure that the Bill gives the ministers equal power; even so, the community believes the areas of the two ministers to hold quite different values. Some people would regard water quality, particularly drinking water, as having a primacy so it is very well protected.

Mrs EDWARDES: We have worked through some of these concerns previously. Primarily the Minister for Forest Products is being afforded a role in the approval of proposed management plans for state forests or timber reserves, and appropriately so. In the event that the commissions cannot agree to the proposed plan, there will be an opportunity for that to be referred to the Government. I re-emphasise a point that I made previously about the role of the Environmental Protection Authority, particularly with forest management plans. That is not something which is new; it is well proved. A new forest management plan that is prepared by the Conservation Commission through the agency of the Department of Conservation occurs with the participation of the Forest Products Commission. The draft management plan is then released for public consultation. At the same time, it will be assessed by the Environmental Protection Authority. Under the Environmental Protection Act, the EPA also engages in a public consultation process. The two authorities will work together at the same time. It is only when the EPA considers that a plan is acceptable that it will recommend ministerial conditions that will be applied to that plan for implementation. That is what the authority does now. Those conditions are set by the Minister for the Environment. The concerns being raised by members opposite about the role of the Minister for the Environment being usurped in the preparation of the management plans by the two commissions working together are not well founded. That is because the Minister for the Environment has primacy through the Environmental Protection Act and in the application of those ministerial conditions to any of those forest management plans.

Dr Constable: Does that mean the provisions of the Environmental Protection Act override this notion that the two ministers must agree?

Mrs EDWARDES: I will take members through this process step by step, because it is important to understand the mechanics. The Conservation Commission, the Department of Conservation and the Forest Products Commission will work together to develop draft forest management plans. The plans will go out to the public at the same time as they are referred to the Environmental Protection Authority, which also sends them out to the public. The two ministers agree to the draft forest management plans going out to the public. When the plans come back to the EPA, they are assessed in the normal course and recommendations are made to the Minister for the Environment for ministerial conditions that the Minister for the Environment will apply to forest management plans.

Dr CONSTABLE: The minister has just given an explanation of what happens when the two ministers agree. However, through all of this we have been asking what will happen if the ministers do not agree?

Mrs Edwardes: It goes to the Government.

Dr CONSTABLE: The minister has suggested it will go to Cabinet and somehow Cabinet will referee this agreement and someone will end up a winner.

Mrs EDWARDES: Quite frankly I cannot see that occurring.

Dr Constable: It is possible.

Mrs EDWARDES: We have provided for that eventuality.

Dr Constable interjected.

Mrs EDWARDES: In that eventuality it will go to the Governor and he will decide. That occurs through Cabinet.

Dr Constable: Let us be realistic. It might end up with the Governor but if there is some disagreement, political forces might be involved in the cabinet deliberations. One minister will win and the other will lose in such a situation.

Mrs EDWARDES: No, I do not believe we are talking about winners and losers. That would be an unrealistic understanding of how the cabinet processes works.

Dr Constable: To put it another way, the view of one of those ministers might prevail.

Mrs EDWARDES: It may well be that further information, advice, expertise or whatever is brought into the process to help Cabinet's deliberations, which may well change the agreement. In the light of the further information, Cabinet may suggest that both of the ministers work it through. A number of scenarios could eventuate. It could be disagreement on an area. For instance, the Ferguson committee examined how we can implement a decision regarding karri. Cabinet may say we need to seek further advice on that area. It is too simple to talk about winners and losers between two ministers.

Dr Constable: Does the minister see the independence of the Conservation Commission possibly being affected if an issue reaches that stage of disagreement and Cabinet must deal with it?

Mrs EDWARDES: No, because the Conservation Commission will have a strong role in policy making, auditing and the like. It will be independent of the department, unlike the National Parks and Nature Conservation Authority and the Lands and Forest Commission, because it will be able to employ its own staff and manage its own funds. Therefore there will be a greater level of independence than the present two authorities have. The Environmental Protection Authority will still be operating. As such, after full public consultation, there will be a greater semblance of agreement than one might assume would not be the case, particularly when the EPA, as an independent body, has done the assessment. It will be a public document. It is nothing that this Government or any future Government could conceal. I am sure the ministers would work very hard to find an agreement consistent with the recommendations of the EPA.

Dr EDWARDS: Am I correct in saying that the draft forest management plan will go out for public comment and then back to the Conservation Commission? At the same time will the EPA examine the same plan and then publish a bulletin that will also go out for public comment, in the sense that a short appeal period occurs after the bulletin has been published? Is it correct to say that the public will be able to examine a plan and send submissions to the Conservation Commission? Will the EPA examine it before or after it goes to the Conservation Commission?

Mrs Edwardes: After; therefore the EPA will work with the Conservation Commission on any changes it wished to make to its proposal in the light of the public submissions, etc.

Dr EDWARDS: The bulletin would indicate which were the main aspects of the forest management plan. In the manner that the EPA says that the proponent is prepared to make alterations, I guess it would be saying the Conservation Commission is prepared to make the alterations.

Mrs Edwardes: The Conservation Commission may change its proposal in the light of the public submissions.

Dr EDWARDS: Are they still obliged to act jointly with the Forest Products Commission at that stage, or will that come back into the loop when the EPA report has been out, reviews have been undertaken and conditions have been forwarded to the Minister for the Environment?

Mrs Edwardes: No, at that stage they are no longer acting jointly.

Dr EDWARDS: So the EPA will put out a bulletin that has been prepared with input from the Conservation Commission.

Mrs Edwardes: The EPA will also work with the Water Corporation, the Water and Rivers Commission or anyone else that has an interest. The member for Maylands will remember the clause requiring written submissions be sent to those authorities. Therefore, the EPA will similarly consult with the agencies that will have an impact.

Dr EDWARDS: Is it correct to say that when the EPA has sent out its bulletin and done the appeals, draft conditions have been sent to the minister and final conditions for the forest management plan have been sent by the Minister for the Environment, it will then come back to the Minister for the Environment and the Minister for Forest Products?

Mrs Edwardes: No.

Dr EDWARDS: When will it go to both ministers?

Mrs Edwardes: At the draft forest management plan stage.

With respect to setting of ministerial conditions, the Minister for the Environment already consults with decision making authorities and the Minister for Forest Products will become a DMA then; therefore the current process will take over.

Dr EDWARDS: By that time will the "giving effect to the Minister for Forest Products submissions" have already occurred?

Mrs Edwardes: Yes.

Dr EDWARDS: Either my understanding is not quite up to scratch or every time I get an explanation the process is slightly different. This appears to be different from the flow chart we have been given.

Mrs Edwardes: I have not seen the flow chart.

Dr EDWARDS: We need a final definite statement of who does what and when and other ramifications. If they all agree, that will be fine. However, they will not always agree. The history of forest management plans is that very often there is a lot of tension. Sometimes that has been within CALM. In 1992 it bubbled over to become a concern for the then Minister for the Environment. The nature of the beast tends to mean that things do not go as smoothly as we would all like.

Dr CONSTABLE: I agree with the comments by the member for Maylands about the need for a clear and precise explanation of the steps for agreement. We have just about achieved that, but the problems arise when there is disagreement. We all recognise that there could quite easily be tensions between competing interests of conservation values and commercial forestry values. That is a given, because their needs and objectives are so different. In the case of disagreement, we want the minister to finetune the explanation so that we understand what the process will be. There is still great fear that the conflict between these two sets of values means the resolution sometimes will not be in the best interests of conservation. We recognise, of course, that people can work together and resolve these differences, but there may be cases of major differences and major conflicts where the provisions of the legislation seem to force the ministers to agree. Then the situation can become very political and a case of disagreement might be thrashed out in Cabinet. In a sense the legislation glosses over that possibility by saying the decision will go to the Governor in Executive Council. That sounds sweet and nice, but we all know that before it got to the Governor there might be some considerable fight over the disagreement, and the resolution of that disagreement might go against the advice of the Conservation Commission or perhaps the Environmental Protection Authority. The conservation values may lose out in that situation, and that is why I think it is important for the prime role to stay with the Minister for the Environment. Without that there is a risk that the conservation values may miss out.

Mrs EDWARDES: I have had a quick look at the flow chart and it is not quite correct, according to our understanding of the operation of the two systems that go hand in hand. It is the first time I have seen that flow chart, and it will be corrected and a copy will be given to the Chamber. This flow chart does not recognise the EPA process and the role of the Minister for the Environment which, under the Environmental Protection Act, is totally independent of the development of the forest management plans with the Minister for Forest Products. The line referring to the minister approving implementation conditions is not included. That process happens at a later stage. If there is disagreement after the parties have gone through the EPA process, and the proposal is changed in any substantive way, it must go through the EPA process again. The flow chart is not as detailed as the process under the Environmental Protection Act. The amendment before the House does not deal with the Environmental Protection Act, and neither should it because the process is totally independent of this legislation. I apologise for that.

Dr Edwards: Where does the arrow go in?

Mrs EDWARDES: Much further down.

Dr Edwards: That made good sense.

Mrs EDWARDES: No, it does not because any plan that is amended in response to submissions must be worked through with the EPA, and it cannot do what this flow chart indicates it can. It does not reflect the role of the minister under the Environmental Protection Act. It skips the process required under that Act. I will have that corrected.

Amendments put and negatived.

Clause, as amended, put and passed.

Clause 28: Section 62 amended -

Dr EDWARDS: I do not understand the provision on temporary control areas. I have a copy of the blue Bill, which would not have changed since this legislation was released. Division 2 of the Conservation and Land Management Act, headed "Classification of land", is about to be amended to the effect that subject to this section the minister may, on the recommendation of the Conservation Commission, by notice published in the *Gazette* classify any land that is vested in the Conservation Commission as a temporary control area. I read that to mean that the current temporary control areas will remain. Subclause (4) at page 32 provides that section 62(1) of the principal Act be amended and that proposed subsection (1aa) be inserted, whereby the minister may, on the recommendation of the Minister for Forest Products, classify any land as a temporary control area.

Following that, reference is made at page 33 to procedures in cases of urgency. Will the minister go through that process,

because I do not understand it? It appears there is a special type of temporary control area which the Minister for Forest Products recommends, and if it is not urgent the Conservation Commission has an opportunity to make a submission. Also, if it is not urgent, under the general provisions of the legislation, members of the public can make written submissions. If it is urgent, the advice of the Conservation Commission is dispensed with and, presumably, also the public has no input for the obvious reason that it is urgent.

Mrs EDWARDES: Subparagraph (1ba) deals with the sense of urgency and requires that the Conservation Commission be given an opportunity to make a submission or, in some instances, dispense with it. However, proposed section 19(9) provides that, if the minister determines that it is urgent, it must be tabled.

Dr EDWARDS: I have probably answered my own question. Can there now be two types of temporary control areas? I guess not. Currently the Lands and Forest Commission makes a recommendation to the minister and there will be a temporary control area.

Mrs EDWARDES: There are two. This refers to timber control areas established on the recommendation of the Minister for Forest Products. In those instances there is an issue of safety and the like. They are in there and have control of the area that is being harvested. We have the opportunity for the Minister for the Environment, under the Conservation and Land Management Act, also to establish a TCA.

Dr EDWARDS: Is the reason for the provision of the forest products temporary control area - that is, in cases in which the Minister for Forest Products has made a recommendation - different from the reason the Lands and Forest Commission would use for such a control area? There seems to be new wording in the legislation in respect of what we were talking about yesterday.

Mrs EDWARDES: The wording obviously reflects some of the recent court decisions and focuses on issues of safety and the like. We still have the other temporary control area, which does not change and which relates to flora and fauna.

Dr EDWARDS: Both temporary control areas are for 90 days but both can be established more than once.

Mrs EDWARDES: Yes.

Clause put and passed.

Clause 29: Section 62A inserted -

Dr EDWARDS: It is an improvement in terms of accountability that Parliament has a role.

Clause put and passed.

Clauses 30 to 35 put and passed.

Clause 36: Section 97 replaced by sections 97 and 97A -

Dr EDWARDS: This clause refers to forest leases. The executive director can grant a lease for land within a state forest or timber reserve not exceeding 21 years. Is the 21 years a standard period? What is the rationale for making it 21 years?

Mrs EDWARDES: It is to be consistent with the leases on the conservation reserves.

Clause put and passed.

The ACTING SPEAKER (Mr Masters): A problem has arisen regarding the recommittal of clause 4. I understand that once we finish the consideration in detail stage, the minister will move that the third reading of the Bill be made an order of the day for the next day of sitting. On that day, the minister can request that clause 4 be reconsidered.

Mrs EDWARDES: The problem is due to the fact that we no longer have a committee stage but have consideration in detail, and we no longer have the adoption of the report, which is when we can recommit clauses. It might have been better if we had deferred the consideration of those clauses. We have all learnt from the application of the new standing orders. What I intend to do is that before the third reading next week, we will go back into consideration in detail to reconsider clauses 4 and 10. I accept the principle of ESFM as it stands without amendment. I also accept the amendment to clause 10 to delete ESFM and substitute in accordance with the principles of ESFM, but not the amendment dealing with sustained yield.

Clauses 37 to 53 put and passed.

Schedule put and passed.

Title put and passed.

FOREST PRODUCTS BILL 1999

Consideration in Detail

Clauses 1 to 4 put and passed.

Clause 5: Forest Products Commission established -

Dr EDWARDS: We welcome this Bill for the establishment of the Forest Products Commission. However, we are

concerned that the Bill seems to have evolved even further only recently, because a week ago we were given a raft of new amendments which affect the previous Bill and which will result in 45 FTEs moving to the Forest Products Commission. We are also concerned that despite the fact that we have dealt with the Conservation and Land Management Amendment Bill in considerable detail and will now do the same with this Bill, we still have not been given all the answers about how assets will be divided, what will go where, and what will happen to the CALM debt and how that will be carved up. We also have a raft of concerns about the commissioners who will be appointed under this Bill. However, these Bills are a step in the right direction, and we hope that everything will fit into place in the right way when they finally come to fruition.

Clause put and passed.

Clause 6: Commissioners -

Dr EDWARDS: This clause states that the commission is to have seven commissioners appointed by the Governor on the nomination of the minister - it will be a ministerial appointment - as having such expertise in commercial activities as is relevant to the functions of the commission. The functions of the commission are essentially to advise the minister about matters relating to forest products and their commercial value, to sell forest products by way of contract, and related activities. The commission will clearly have a commercial aim, and it may have on it seven people, hopefully not all from the city, who have a commercial interest in the forest industry in this State and who may have a conflict of interest when they make their decisions. We had the situation with the Interim Forest Management Advisory Committee in which questions were raised about potential conflicts of interest. We are pleased that the Minister for the Environment supported our amendment to the Conservation and Land Management Amendment Bill to ensure that no person who has a current contract with the Forest Products Commission can be appointed to the Conservation Commission, and we hope the Government will move the same amendment to this Bill so that there will be no potential for conflicts of interest.

We accept that the schedule sets out procedures on how the commission shall handle any perceived or real conflicts of interest. However, that raises some questions. A person who believes he has either a real or possible conflict of interest may talk to the commission about going outside so that he is not part of the decision-making process, but the commission may decide that it would rather that person was at the table; and, under the schedule, the commission would have the right to do that. Therefore, even if that person had sought to do the right thing, he would still be open to a John Howard brother-type scenario, where it was perceived that John Howard had made a decision based on his brother's involvement in a certain company. We need to have some safeguards to ensure that we get open and accountable decision making from this important new body, the Forest Products Commission.

Mr THOMAS: I endorse the comments made by my colleague the member for Maylands but will take another tack and point out another omission in the Bill with regard to the qualifications of the people who will be eligible to be appointed to the commission. There is no provision for representation on the commission of workers in the industry. It seems to me that this is a case in which there should be statutory provision for workers in the industry to be represented on the commission which will have responsibility for the health and prosperity of that industry. There is a number of cases in different industries in which employee representatives have had a role on bodies which are responsible in some sense for either management or policy development in a particular industry. One of which I have had experience, which I believe was successful, at least for a period, was the iron ore industry consultative council. There was representation from the unions and the workers in that industry on that body. That industry was characterised by suspicion on the part of employers and employees, and on occasions relations could be described as being of an adversarial nature.

The forest products industry has been characterised throughout its history by good relations between employers and employees. Although they would have had differences from time to time on industrial matters - industrial in the sense of terms and conditions of employment - in respect of the prosperity of the industry and their commitment to it, for the most part there has been an identity of interest and an identity of policies between the unions that represent that industry and the employers, because they both have an interest in the industry having access to a resource base and in the industry prospering so that there will be jobs. That situation goes back a long way.

In this House, for example, were the Holmans - father and daughter - who came from the timber industry, both having held the office of secretary of the timber workers union and both having been elected to the seat of Forrest to represent, for the most part, people employed in the timber industry. In recent years, the timber workers union was under the leadership of Mr Camainos, and although most members on this side of the House would have had differences with him about internal Labor Party politics, it could not be denied that he was a person who had the interests of his members, and the interests of the industry in which they were employed, at heart. In more recent years, the Australian Workers Union, which represents the workers in that industry at present, has played a constructive role in the debate which has taken place, both in the Labor Party and in the wider community, when representing the interests of the workers, as seen by both the union and the workers, and determining what would be directions for the prosperity of the industry.

On a commission which will have seven commissioners, I cannot see why there should not be a statutory provision which states that the people who are employed in that industry, whose interests are as deeply entwined in the prosperity of that industry as are the interests of the managers or the owners and shareholders of the business - the people who would presumably have some sort of expertise, as clause 6(1) states - should have representation on the commission. Mr Tim Daly, the secretary of the Australian Workers Union, who was in this Chamber earlier today hoping to see the debate, and Mr Nick Oaks, who has closer representation of the people in that industry, would be described by all parties as being people who have a responsible attitude to their industry and who are committed to its prosperity. The Bill is deficient in that it does not make provision for the workers to be represented on this very important commission.

Mr OMODEI: I will move an amendment concerning the representation on the commission at the end of my comments. First, I will deal with the comments made by the member for Cockburn about AWU representation. I agree with him that both Nick Oaks and Tim Daly have made a good contribution and have represented the workers in the industry very well. I will make a political comment and say that had the Labor Party taken their advice on policy, maybe we would not be having the difficulties we are having in forests today.

Mr Kobelke: When we do take their advice, which is often sound advice, you then attack us for being under their control.

Mr OMODEI: I do not think I would do that.

As has been mentioned, under clause 6(1), the commission is to have seven commissioners appointed, and those commissioners should have expertise in commercial activities as is relevant to the functions of the commission. We have deliberately made it a non-sectorial and non-representative commission so that people with broad experience in commercial activity will be appointed to the commission. Dealing with the people who represent the industry and who represent the union, I refer to schedule 1, clause 9(1), on page 53, which states -

> The commissioners may appoint any person having specialized experience, skills or qualifications as would enable the person to make a contribution to the commissioners' functions to be a co-opted commissioner for such period, or in relation to such matters, as specified in the instrument of appointment.

Clause 9(2) states -

> A co-opted commissioner is not entitled to vote but while acting according to the tenor of the appointment, he or she -
>
> (a) may take part in the commissioners' deliberations; and
>
> (b) is to be treated as a commissioner.

Clause 9(3) states -

> The General Manager may attend meetings and take part in the consideration and discussion of matters . . .

On page 45, under "Part 10 - Miscellaneous", clause 66(1) states -

> The Minister may establish one or more advisory committees (a **"committee"**) to provide advice to the Minister in relation to employment in, and development of, the forest products industry or on any other matter relating to the administration of this Act.

Under the schedules and the miscellaneous parts of the Bill, there is provision for advice to be provided to the minister and to the commission in an adequate way. The Government acknowledges the issues raised by the Opposition concerning the involvement of people who are contractors. I move -

> Page 6, after line 24 - To insert the following -
>
> (d) involved in a current production contract or has a current material personal interest in a company or business which has a current production contract with the Forest Products Commission.

The Government acknowledges that people who have a current contract would have a conflict of interest. There are clauses under which people can be excluded from a meeting.

Dr EDWARDS: I thank the minister for moving that amendment. It is obviously a variation of the amendment that the Opposition moved to the previous Bill, when we considered the Conservation Commission. It is a good start. However, we would like to see other amendments to include union representation on the Forest Products Commission. As the minister said, unions play an important role. They do not have a vested interest, but look after a group of people working in the industry and we believe they can make a contribution. Can I have an assurance from the minister that when members of the Forest Products Commission are chosen there will be a balance of representatives from the plantation timber and the native timber industries, so that the commission will consider the future of timber in its broadest context?

Mr OMODEI: I will take those comments into consideration. We would need many more commissioners if we were to represent every section of the industry. The parameters set out in clause 6(1) will include people who have commercial expertise, and we expect they would have a reasonable knowledge of those industries, although that knowledge can be acquired. However, under the advisory committee structure, and the ability under the legislation to coopt people, the minister will receive all the advice he requires. I agree that somewhere in that structure the union movement should be a member of either the commission or an advisory committee under the legislation.

Mr THOMAS: I am pleased to hear the last words uttered by the minister in which he said he would be happy with representation of employees on the commission or on the advisory body. I invite the minister to take that a step further and give the House an undertaking that somebody from the Australian Workers Union or an elected representative of employees in the industry will be appointed to the commission. In response to my suggestion that that was a good idea earlier in debate on this clause, the minister said there was scope for the commission to coopt someone from the Australian Workers Union or some other representative body of workers in the industry if it has a mind to do so. It is also the case that under clause 6(1), if the Government recognised a person had the relevant expertise, it could make such an appointment anyway. It would be hard to argue that a person who is familiar with the industry and who represents employees in that area is not somebody with the relevant expertise.

In the atmosphere in which the Government has put forward this legislation and is seeking cooperation from all sorts of interests in the industry, the Government should consider representation from a group of workers who have been steadfast in their loyalty to the industry in which they are employed and determined to promote the prosperity of that industry. They are also quite responsible and are looking for innovative ways to protect jobs in the industry and to promote its prosperity. In the absence of an amendment which would make that possible, if the minister indicated his intention to ensure that representation, that would give the Opposition and people employed in the industry greater confidence that the Government is seeking cooperation with employees and employers. Those are the three parties making decisions in relation to this industry.

I ask the minister to consider this proposition, because in most cases this Government has sought to promote an adversarial attitude between employers and employees. It has promoted an anti-union policy and has sought to denigrate the role of organised labour. If the Government considered the behaviour of the Australian Workers Union and the people involved in this industry, it would have to agree that in its own terms this group of people is genuinely seeking to promote the interests of industry they are employed in and the communities they live in, and that they are representative of the wishes and interests of the people who are involved. Not only that, they are people who are informed about the industry. It is a unique industry and it is necessary to have a knowledge of the resource base, the technology markets and so on. As mills close or have been threatened with closure, various rescue schemes have been put forward, and these people have been involved in discussions and have acquainted themselves with alternative technologies, markets and futures for the facilities that have been threatened with closure. They possess knowledge of the commercial interests of the industry, apart from the simple industrial issues such as the wages and conditions of the people they represent. It would be a creative move and one that would generate enormous goodwill among those communities and that section of workforce if the minister were to indicate that it is the Government's intention not to rely on the commission, at some later date, to coopt representation from the union or workers, but to recognise the importance of these people and the genuineness of their endeavours in this area, and that it will recommend to the Governor the appointment of a direct representative of the workers.

Mr OMODEI: I admire the diligence of the member for Cockburn in putting a case for the timber workers and the AWU. I will consider the proposition, but I am not prepared to make a commitment at this stage. The Bill will come into operation on 1 July. We are in the process of looking for suitable appointments for the commission and the advisory committee. It is not my role as the minister to consider the wages and conditions of timber employees, and the member knows that. However, that does not mean I do not acknowledge that they have a broad knowledge of the industry and could provide some ideas as far as the markets, value adding or whatever is concerned. A range of other people in the community can provide the same kind of information. I will consider the proposition put by the member for Cockburn. It would be presumptuous of me to make a commitment now on that issue. Scope exists in the legislation to include those people should it be deemed necessary in the overall scheme of things. That is the best I can do.

Amendment put and passed.

Mr KOBELKE: I accept the minister's statement that it would not be possible to cover all the sectorial interests including those of workers through their unions. In a commission of seven members, if the legislation were specific about representation of sectorial interests, appointments could be difficult to juggle and we might not get the best commission. I also welcome the undertaking by the minister to look sympathetically at appointing someone who represents the workers - presumably someone from their union. I take that statement by the minister to be genuine. Although I have deep political differences with the minister on a range of issues, I have found him to be a person who will look at issues on their merits and not take a closed political view and lock people out because they are not his political supporters. I recognise that in the minister.

Mr Omodei: My track record shows that my Regional Forest Agreement Consultative Committee has Nick Oates as a member of the workers union, not representing local government or any other sector.

Mr KOBELKE: The minister's response muddies the water somewhat. I was speaking of the minister in a positive light. In that regard he is picking people on his side. That is not the issue. My point is that for many ministers in his Government the prerequisite for appointment to a board or committee has been that they were political toadies. That has led to a range of major problems with the functioning of boards, committees and commissions. I am saying that I respect the minister's ability to rise above that, because I have seen examples of it in the past, and to judge what he considers to be in the best interests of boards or commissions.

Clearly, political considerations will come into play. I do not expect that not to be the case, but I do not expect him to exclude a good applicant on the basis he did not have the right political colour. The undertaking to seriously consider the matter is one I accept as genuine and I hope the minister will find it possible to make such an appointment.

That brings me to subclause (1) which relates to this very matter. I am hoping that the minister will put his views on the record, just in case in future a court needs to interpret the meaning of "expertise in commercial activities". Although I accept that could have a broad interpretation; nonetheless, I wish to exclude too narrow an interpretation of those words.

The commission of seven will be appointed on nomination of the minister as having such expertise in commercial activities as is relevant to the functions of the commission. Clearly, the minister of the day may be able to bend the interpretation of "functions of the commission", although they are set out in clause 10. The minister will judge what is expertise in commercial activities. However, if a narrow interpretation is taken, he might exclude people who could be useful on the commission. If a narrow interpretation is taken of "expertise in commercial activities", that may restrict the possible appointees to people who have experience and special knowledge and skill in commercial decision making within the timber

industry or closely related industries. I am fearful that the restriction to "commercial activity" could be defined in a court in too narrow a sense. For example, a function of the commission under clause 10(1)(j) is to promote, and advise the minister in relation to, employment in, and development of, the forest products industry. There may be a person with a scientific background who has a fair idea of forest management but who has not been involved in commercial activity.

Dr EDWARDS: The member for Nollamara is making some pertinent points. It is critical we get all the right people on this commission who can fulfil all the functions but who are not denied any opportunity by not having a commercial qualification. I think the member for Cockburn interjected with a pertinent, historical point. I am interested to hear what else the member for Nollamara has to say.

Mr KOBELKE: I thank the member for Maylands. Perhaps I spent too long commending the minister! I am seeking to get the minister to clarify on the record what he sees is the extent of commercial activity. A person who sits in his lounge room and who can use the Internet and watch television may decide he has expertise in commercial activities. If the criteria is based on experience or qualifications, many people could be excluded. If that person has taken a close interest in employment issues, not as an employer and not as one involved in the industry, which would give him expertise in commercial activities, he could be useful helping to fulfil the function under clause 10(1)(j) which relates to employment. The minister may not be able to appoint that person because if an objective criterion were needed to measure the level of expertise in commercial activities, he would not pass the test.

I am asking the minister to put on the record the supporting evidence that may be necessary for an appointee to meet the requirement of having such expertise in commercial activities as is relevant to the functions of the commission.

Mr OMODEI: I am sure the member will agree that a commission of seven is probably as small a commission as is desirable taking into account leave, illness, etc. If the commission were any smaller, there would be problems. It is not intended to restrict the membership of that commission. I expect expertise in commercial activities refers to anyone who had any commercial knowledge of timber, plantations, value adding or accounting. In relation to the matter to which the member referred concerning expertise that may not be technically regarded as commercial activity, if a legal interpretation stops us from appointing a person to the commission, as long as it is related to the functions of the commission, we have the scope to coopt him to the ministerial advisory committee.

Mr Kobelke: But not the commission.

Mr OMODEI: Not necessarily to the commission. However, it is called the Forest Products Commission, which is related to the commercial activities of the production of forests. In the main, most of the scientists who are involved in the plantation industry at present - scientific knowledge is required in both the conservation and the forest products area - are involved in the commercial activity of production of pine or blue gum plantation forests. That clause is not too restrictive. If anything, the amendment relating to anyone involved in a contract or who has material personal interest in a company is probably more restrictive than subclause (1) provides. Again, we are referring to the development of forest products, the marketing of forest products, value-adding, etc. With the amendment, I have bent over backwards to ensure the Opposition and the conservation movement do not think there is a hidden agenda to have somebody with a contract on the Forest Products Commission. We have thought through the issue of "material personal interest". The person need not be retired; he could be someone who has an interest in the industry, but who is no longer directly involved. That alienates many of the people who have current knowledge. I will possibly appoint some of those people to the ministerial advisory committee. Clause 6(1) is adequate to cover the expertise we need on the commission.

Mr KOBELKE: The Opposition thanks the minister for his move to exclude certain people through subclause (3)(d). I acknowledge the minister's comments about the restrictions the amendment will place on him. The whole issue of the appointment of commissioners will be vexatious, even if the politics is left out of it. It will always be problematic to establish a commission in which members have the necessary relevant expertise but are not seen to have a vested interest. I have no problem with the notion proposed in subclause (1). It makes ample sense to me that the commissioners should have expertise in commercial activities. That fits in with the function of the Forest Products Commission. I do not take issue with the requirement that most or all of the members should have such expertise. My concern is that there could be someone, who would simply be the seventh and final person on the commission, who may not actually have relevant expertise in commercial activities but would be a valuable member through the commission's other function of employment. It is another disadvantage of the narrowing down of the type of people who can be appointed to the commission through the exclusions in subclause (3), particularly the new paragraph. We do not want to find that the pool of people with the ability to provide good service on the commission is too small. I reiterate that I have no problem with the intention that the commission should comprise a majority of people with expertise in commercial activities. However, the way the clause is worded may mean the minister is hampered in filling the last one or two positions. There could be situations in which a person could do a good job, but where it would be stretching it to mount a case that says he has expertise in relevant commercial activities.

Mr Omodei: Is the member saying that if a person was purely an academic and had no relevant expertise, he would be left off the commission?

Mr KOBELKE: Yes, because his studies would not be seen to stack up in the area of commercial expertise.

Mr Omodei: That would be rare.

Mr KOBELKE: It is rare, but such a person would be excluded, although that is not the minister's intent. His intent to

ensure commercial expertise is represented on the commission is right and proper. I have no problem with that. However, the way the clause is worded means that all members must have expertise in commercial activities, limiting the minister's room to move. I draw that to his attention. I would like him to comment in case he, or a future minister, appointed someone who was seen to be marginal to the criteria and a vexatious person tried to mount a legal challenge. I would like a clear ministerial statement that the minister intends that most people will have that expertise, but that the clause should be broadly interpreted. I would like that to be on the record of the parliamentary debates so that it will not get to the point whereby people's curriculum vitaes and qualifications are measured to guarantee they have the relevant expertise in commercial activities. Those terms should be used broadly and generally so people on the periphery of such activities are not excluded.

Mr OMODEI: It is intended for the clause to be regarded in the broadest possible context. I am confident that it is drafted in a way that will satisfy the requirements of the commission. I am also confident we will be able to find people with some commercial interest or involvement in an activity that is relevant to the functions of the commission. If a rare exception occurs whereby a person has not got those requirements but has commercial or intellectual properties beneficial to the forest products area, he or she could be appointed to one of the advisory committees. However, I doubt whether that situation will arise.

Clause, as amended, put and passed.

Clause 7 put and passed.

Clause 8: Remuneration of commissioners -

Dr EDWARDS: How much will the commissioners be paid? Following the minister's conversation with the member for Nollamara, is it likely that a commissioner would be an employee as defined under the Public Sector Management Act? Where would their commercial interests in the timber industry lie and how would they meet the other criteria?

Mr OMODEI: I am advised that, for example, the general manager of the Water Corporation could be appointed to the commission. The most likely situation is that a commissioner could be a representative from a government department such as the Department of Commerce and Trade or the Department of Resources Development. It is unlikely.

Dr Edwards: I hope the general manager of the Water Corporation would not be paid on top of his current role.

Mr OMODEI: He would not be paid. Allowances will be determined by me on the recommendation of the Minister for Public Sector Management. I will seek advice on that.

Clause put and passed.

Debate adjourned, on motion by Mr Omodei (Minister for Forest Products).

BILLS - RETURNED

1. Agricultural and Veterinary Chemicals (Western Australia) Amendment Bill 1999.
2. Gaming Commission (Continuing Lotteries Levy) Bill 1999.
3. Acts Amendment (Continuing Lotteries) Bill 1999.

Bills returned from the Council without amendment.

STAMP AMENDMENT BILL 1999

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Kierath (Minister assisting the Treasurer), read a first time.

House adjourned at 4.59 pm

QUESTIONS WITHOUT NOTICE

FINANCE BROKERS, JUDICIAL INQUIRY

658. Dr GALLOP to the Premier:

(1) Is there growing support within the coalition for a full and open judicial inquiry into the finance brokers scandal?

(2) Does the Premier still have full confidence in the Minister for Fair Trading?

(3) When will the Premier end this sham and put the public interest ahead of the interests of his Liberal Party mates by holding a full and open judicial inquiry into this major scandal, which is undermining the reputation of our State?

Mr COURT replied:

(1)-(3) Those are tough words from the Leader of the Opposition. The Government is putting the public interest and the interests of the investors first. The Opposition's proposal would delay for years the ability to successfully reclaim those moneys, where they can be reclaimed. The answer to the first part of the question is no.

FINANCE BROKERS, JUDICIAL INQUIRY

659. Dr GALLOP to the Premier:

Is the Premier saying that none of his coalition colleagues supports a full and open judicial inquiry?

Mr COURT replied:

This matter has been discussed at some length and it was decided that the Gunning inquiry was the appropriate way to go. When the inquiry is operating, it will be able to investigate the matters that are critical to resolving the issue. It is outrageous that the Labor Party is openly trying to sabotage an inquiry into a matter that deserves to be inquired into.

Mr McGinty: That is a vote of no-confidence in the minister.

CANNABIS, DECRIMINALISATION

660. Mr MINSON to the Premier:

Does the Premier support the position promoted by the Labor Party to decriminalise the possession and cultivation of cannabis?

Mr COURT replied:

The Government does not support that position.

The member for Fremantle was being a smart aleck during the previous question. The Minister for Fair Trading has my full support.

Mr McGinty: That will come back to haunt him, too.

Ms MacTiernan: That is because the Premier told him to lay off a year ago. He has the Premier's support because he knows where the bodies are buried.

The SPEAKER: Order! I allow some interjections; however, I must make a judgment on whether they have anything to do with the question and where they are coming from. If the person who has asked the question is trying to pursue his or her line of questioning, I am inclined to allow interjections. However, I do not think the member for Armadale's interjection had anything to do with the question from the member for Greenough.

Mr COURT: There is utter deception from the Labor Party about its drug strategy. At its annual conference last year - it is held every four years - the Labor Party decided it would support the decriminalisation of marijuana and allow people to grow their own cannabis and that it would also support injecting rooms. The Labor Party emerged from that conference highly critical of the stance the Government has taken with its drug abuse strategy. A few months later, the Parliamentary Labor Party strategy was released. It is a terrific strategy that says the Labor Party will hold a drug summit after the next state election. Now, legislation is in the other place and the Labor Party has again said it is okay to decriminalise marijuana and grow it for personal use. At the next election, the public will want to know whether it should listen to the policies of the Labor Party or of the Parliamentary Labor Party. Which policy will it take to the election?

Dr Gallop: The Premier has been asking a lot of questions lately. He must be in the hot seat.

Mr COURT: I am not getting any answers. There is total confusion about drugs, mandatory sentencing and prostitution. Yesterday I said the Labor Party is soft on crime; it is also soft on drugs. It is not prepared to come out with a clear position on drugs. As for the question of whether the public should listen to the Labor Party or the Parliamentary Labor Party, members opposite know that the power lies within the Labor Party. It has the ability to chop sitting members. It did not mind chopping the member for Pilbara. The power lies within the Labor Party and that is where the Opposition's policies will be decided. Opposition members should not try to fool us and the public by saying it has two separate policies on critical law and order issues.

AUSTRALIND BYPASS LAND, SALE

661. Mr KOBELKE to the Minister for Regional Development:

I refer to the minister's answer to my question on Tuesday about his support for the sale of the South West Development Commission land near Bunbury to Mr Len Buckeridge, particularly his incorrect statement to this House that the South West Development Commission had sought permission to get the land zoned industrial but that the approval was refused by the Bunbury City Council.

(1) Why did the minister support the sale of this land with a rural zoning, rather than proceed with the rezoning, when the Valuer General had given an industrial valuation for the land that was twice the amount paid by Mr Len Buckeridge?

(2) Is this not clear evidence that the minister's intervention supported the financial benefits of the deal for Mr Buckeridge over his responsibility to maximise the financial return to the State?

Mr COWAN replied:

(1)-(2) Had the member for Nollamara been a little more patient, he would have received a written response to those questions, as I promised him.

Mr Kobelke: I wrote to the minister yesterday and he refused to give them to me this morning.

Mr COWAN: Now that the member for Nollamara has again asked the question without notice, I tell him that the Executive Director of the South West Development Commission met with the officers from the Ministry for Planning, the Bunbury City Council and consultants appointed by the South West Development Commission to discuss the rezoning of the land. During that discussion, the officers of the South West Development Commission were told that the rezoning of the land could not be assured, either under the proposed town planning scheme No 7 or the existing town planning scheme No 6. On Tuesday I said that I understood that the Bunbury City Council had made the decision. Discussions were held with officers from the Bunbury City Council and those officers would have immediately reported the outcome of that meeting to the Bunbury City Council. I would be very surprised if that report was not endorsed, at some stage, by the Bunbury City Council.

Mr Kobelke: It was not endorsed.

Mr COWAN: I stand by what I say. The discussions took place between officers from the Bunbury City Council and the Ministry for Planning and the consultants who were appointed to aid in the proposed sale of the land. At some time the Bunbury City Council - the elected representatives - would have known precisely what was occurring through the receipt of a report. It is normal practice in local government for such a report to be received. Through that process, nothing would have been hidden from the councillors, which is what the member is implying.

I also say for the benefit of the House, not just for the benefit of the member for Nollamara, that I did not meet with Mr Len Buckeridge, as was claimed, to discuss this matter. However, I acknowledged at the time, and I can now confirm, that on 15 March I either made a telephone call to or received a call from Mr Buckeridge during which he was told that this matter was being handled by the South West Development Commission and that it had had discussions with the Bunbury City Council, which has responsibility for the zoning of that land, but that, as far as I was concerned, the land was surplus to the needs of the Bunbury Port Authority. That land was held by the South West Development Commission for that purpose. However, the land was no longer required for that purpose and it was put on the market. We would prefer to sell it as industrial land, but we were not prepared to go through the process unless the rezoning was assured. If that was not assured and the Bunbury City Council could not give that assurance, the land would be sold under the current zoning, which was rural. What this points to more than anything else is that perhaps 12 years ago the people in authority acquired the land at a price that was far too high.

AUSTRALIND BYPASS LAND, SALE

662. Mr KOBELKE to the Minister for Regional Development:

I have a supplementary question. Is it not true that just as the minister misled the House on Tuesday, he is again trying to deceive the House? Can the minister explain how Mr Buckeridge obtained the rezoning within a matter of weeks?

Mr COWAN replied:

It is not true that I misled the House. The question that was just asked of me should be asked of the Bunbury City Council.

GOVERNMENT'S DRUG STRATEGY, POSITIVE RESULTS

663. Mr BAKER to the Minister for Police:

As the minister is responsible for the Western Australian drug abuse strategy, I ask him whether he is aware of any indications that the Government's comprehensive strategy on drugs is beginning to show positive results?

Mr PRINCE replied:

Yes. I am delighted to answer that question. It should be remembered by members of this House, particularly those opposite, that it was the vision of the Premier and of the Government in 1996, with the task force to examine issues

concerning drugs, that led to the development of a policy that incorporated the views of professionals, of people who work in the area and of the community as a result of extensive consultation. The result was that under the management of my colleague the member for Ballajura, we came up with two plans, the Together Against Drugs action plan for 1997-1999 and the Together Against Drugs action plan for 1999-2001. The result is, particularly when Western Australia is compared with elsewhere, that notwithstanding the huge increase in opium supply, particularly that coming out of Afghanistan - in 1999 its production doubled again - purity rates have risen on the streets of Australia from about 20 per cent seven or eight years ago to nearly 60 per cent or more now. We have a plateau level of heroin deaths. I make the point that one death is too many. In 1996-97 the number of deaths from heroin overdoses rose dramatically; it was out of all proportion to anything that had happened before.

In 1997 in Victoria, which keeps the same sort of statistics as those kept in Western Australia, there were 168 deaths, in 1998 there were 268 deaths, and in 1999 there were 359 deaths. During the same period, in this State in 1997 there were 83 deaths, in 1999 there were 86 deaths, and in 1998 there were 78 deaths. So far this year there have been 15 deaths in comparison with 19 or 20 for the same period in the last financial year. One death is too many. However, the number of deaths in WA from drug overdose has plateaued and stabilised. Part of the reason for that is a holistic approach to education, information, care and law enforcement, and a line that says drugs will not be legalised. We have an opiate overdose strategy that works. The Australian Red Cross (Western Australia) is on side, St John Ambulance is carrying Narcan, and the hospitals are following up people. Our strategy has been examined by experts from across Australia, and they rate us as having the best strategy bar none in the whole of Australia. The results can be seen in the way in which we are handling matters.

Yesterday I tabled the latest crime statistics. They show that drug offences decreased by 6.3 per cent for October to December 1999 compared with October to December 1998, and the clearance rate for drug offences went up to 90.5 per cent. The strategy is working. Against that, others, and the member for Willagee particularly, are saying constantly that we have no plan, no policy and no strategy. It has taken four years to develop and implement this strategy. The results indicate that we are slowly winning the war, but all we hear from the member for Willagee is that the Labor Party will have a meeting after the election and at the same time other organs of his party are completely contradicting that statement.

KING EDWARD MEMORIAL HOSPITAL, OUTPATIENTS' CLINIC

664. Ms McHALE to the Minister for Health:

Considerable notice of this question has been given.

I refer to the minister's statement in this House last September that work on the outpatients' clinic at King Edward Memorial Hospital for Women will go to tender in October and that the work is expected to commence in November this year, with completion expected in April next year.

(1) On what date was the tender process advertised?

(2) On what date will work start and when will the clinic be completed?

Mr DAY replied:

I thank the member for some notice of the question.

(1)-(2) I am advised by the Metropolitan Health Service that the project will go to tender on 8 April; in other words, on Saturday week. It is anticipated that the work will commence on 22 May, with an estimated completion date towards the end of October this year. This project has taken longer than I thought it would. In my view, it has taken longer than it should have. I have made it clear to the Metropolitan Health Service that it should get on with the project. It is doing that.

While we are talking about capital works at King Edward Memorial Hospital, I will deal with an issue that the Opposition raised during a parliamentary break when it was engaged in its predictable scaremongering activities to try to frighten the public about the standard of the equipment at the hospital. I will deal with that which this Government has done compared with the record of the Labor Party when it was in government. During the time this Government has been in office, it has spent $11m on upgrading facilities and providing new equipment at King Edward Memorial Hospital and Princess Margaret Hospital for Children. In addition to that, $7.7m has been available to the Metropolitan Health Service to spend throughout its network. What did the Labor Party spend when it was in government, particularly in the last four years? It spent $500 000. What was it for? Was it for new equipment? No, it was for a new car park at Princess Margaret Hospital for Children. Therefore, this Opposition is in no position to lecture us about capital works activities at King Edward Memorial Hospital. We are getting on with the job and the work will be done.

CRIME, REDUCED FIGURES

665. Mr BLOFFWITCH to the Minister for Planning:

The Leader of the Opposition has claimed that law and order issues need addressing by various arms of government. Will the minister inform the House of the planning measures he is taking to help the Government reduce crime in this State?

Mr KIERATH replied:

I am sure members of the House will remember that I released a document dealing with liveable neighbourhoods in

December 1997. Members might be fascinated to know that a couple of months later, in February 1998, the Leader of the Opposition said on the radio that he wanted to introduce the urban village concept, which is precisely the concept behind that document which was launched some two to three months earlier. One thing for which I will give the Leader of the Opposition credit is that he is learning some tricks from his old mate Tony Blair; that is, he pinches good ideas off the other side.

One of the features of this liveable neighbourhoods' code relates to improving security on the ground; that is, getting people out of their cars and getting them walking in the streets to improve their security. That code was designed to make those neighbourhoods much safer. It is known throughout the world that this is the cutting edge of urban village design and those features reduce the crime rate. Even though the livable neighbourhood concept is available only to new developments, 40 developments have used it. Some members might know that the Subiaco and East Perth redevelopments and the Ellenbrook development were designed using many of these principles, and they have been successful. I am proud to say that 40 developments are in place or being undertaken using those principles. I can say that the Leader of the Opposition is correct -

Dr Gallop: He is up to the mark.

Mr KIERATH: The Leader of the Opposition is correct in saying that a variety of strategies are needed. However, he will not acknowledge the good strategies that this Government has put in place over the past two and a half years.

WHITBY FALLS HOSTEL, CLOSURE

666. Ms McHALE to the Minister for Health:

I refer to the Whitby Falls Hostel.

(1) Why is the Government intent upon closing this therapeutic residential hostel when the residents have previously been guaranteed that no-one would be pressured to move; indeed, they were told that some or all may stay at Whitby Falls for the rest of their lives?

(2) What is the expected date of closure of Whitby Falls Hostel?

(3) Is it true that the land will be leased to the private sector by July 2000 and, if so, for what purpose?

(4) How does the Government now explain to the residents and their families that it has reneged on its guarantee, thereby causing significant anxiety to vulnerable, ill people?

Mr DAY replied:

(1)-(4) I have visited Whitby Falls Hostel and I have seen the nature of the facilities provided for the residents. There is no question that the standard of the facilities is not as high as it should be. The buildings are old and institutional in nature. They are not by a long way the most appropriate or best accommodation that could be provided for the mental health patients who are accommodated at Whitby Falls. The Government wants to provide better facilities for people with mental health problems. Later in question time I will give an example - the member for Perth will confirm what I say because she was at the opening - of an impressive new facility for people with mental health problems. The Government has no plans to close the Whitby Falls Hostel. It is not intent on closure in any way whatever.

Mr Kobelke: Will you give a guarantee to keep it open?

Mr DAY: We have given the guarantee that no resident will be moved against their wishes, and without better accommodation being found. I have no doubt that many of the residents at Whitby Falls can be accommodated in much more appropriate and better accommodation, and where appropriate accommodation can be found, that is being done. The Government has not made any decision to close Whitby Falls. It is concerned to provide the best possible accommodation for the residents.

WHITBY FALLS HOSTEL, CLOSURE

667. Ms McHALE to the Minister for Health:

Is not the minister aware that the facility is scheduled to close in December 2000?

Mr DAY replied:

As I said, the Government has not made any decision to close Whitby Falls. It has made it clear to the residents and their families that they will not be moved except with their approval, and unless better and more appropriate accommodation can be found for them, which has occurred for a number of the residents.

WORLD CONGRESS OF FAMILIES, REPORT

668. Mrs HODSON-THOMAS to the Minister for Family and Children's Services:

Has the minister had an opportunity to read the report the member for Girrawheen and I wrote as a result of representing the Government on a recent trip to the second World Congress of Families in Geneva? As the Family and Children's

Services policy office is currently consulting the community on strengthening families, will the minister forward a copy of this report to it on our behalf ?

Mrs van de KLASHORST replied:

I have read the document that was produced by the members, and I commend them for representing the Government on this trip, and on producing a report. The document contains many wonderful findings. Although I do not agree with every statement and finding in the document, I will pass on the report to the Family and Children's Services policy office which, as all members should know, is getting information from people throughout Western Australia to seek community opinions on how we can strengthen families. As families are one of the most important aspects of Western Australian society, I table the document so that all members in Parliament can read it.

[See paper No 794.]

GNARABUP BEACH DEVELOPMENT, SEWAGE DISPOSAL

669. Ms MacTIERNAN to the Minister for Water Resources:

Has the minister now checked the correspondence between the Water Corporation and the proponent of the Gnarabup Beach development? Can he now explain why he told the House that the Water Corporation had not anticipated the need to truck sewage out of the district as a result of allowing the developer to release land before expanding the waste water treatment plant? Will the minister now table the correspondence and will he explain how he intends to recover the cost of carting the excess sewage?

Dr HAMES replied:

I am grateful to the member for Armadale for asking me this question today. I was trying to get it asked by someone on my side of the House, but so many members wished to ask questions I could not get it in.

On 28 March the member for Armadale asked in part why the minister said in his answer on 21 March that cartage of sewage was not anticipated when the Water Corporation letter of 24 November 1999 said that the developer should be responsible for all cartage costs. The answer to this is that the cartage of sewage was not anticipated when the approval of stage 2 of the development was given in 1996-97.

The Water Corporation says that the member for Armadale misinterpreted its answer. When the member said that the Water Corporation's answer to her original question -

Ms MacTiernan: Are you going to table the documents?

Dr HAMES: Yes, I am. When the Water Corporation answered the member's original question about whether it anticipated cartage of sewage, and it said that it was not anticipated, it meant the answer to relate to when the project started. Of course, that is what the member's question should have meant.

Mr Kobelke: So the member for Armadale should have asked the question that the minister gave the answer to!

Dr HAMES: The member for Nollamara should read the *Hansard*. He will see that the answer to the question that the member for Armadale asked was quite logical - even the member for Nollamara can be logical on rare occasions - in anticipating that her question meant, "When the approval was given, did the Water Corporation anticipate that cartage would be required?" The answer to that is no. The letter that the member for Armadale referred to was dated November 1999, when the issues had become more apparent. As the member for Armadale says, a letter was written in November 1999.

Ms MacTiernan: Does the minister agree with the Water Corporation that the developer is not acting in good faith and there was an understanding that it would pay?

Dr HAMES: The Water Corporation believes, as do I, that the developer should pay for that cartage. Negotiations have been going on in that respect. I table letters dated 24 November 1999 and a letter dated 28 January 2000.

[See papers Nos 795 and 796.]

Dr HAMES: I have no doubt that that company should pay for the cartage. The Water Corporation was acting in the best interests of the public and negotiations have been undertaken. I have been told that an agreement has been reached with the company that it should pay. However, I am yet to get that in writing; when I do I will give a copy to the member.

DAWESVILLE ROAD DEVIATION, SOCIAL IMPACT

670. Mr MARSHALL to the Minister representing the Minister for Transport:

Concerns have been raised regarding the social impacts of the Dawesville deviation, such as noise pollution, particularly from heavy traffic. What can be done to erase this expectation?

Mr COWAN replied:

The Minister for Transport has provided the following answer and thanks the member for providing some notice of the question.

Main Roads is aware of the community concerns regarding the issues of severance and noise and visual impacts associated with this project. With this in mind, Main Roads will be providing a number of features that will minimise the scale of these impacts, such as -

(i) providing two pedestrian and cyclist underpasses to enhance access to existing recreational facilities, as well as future schools and community facilities planned for the area;

(ii) surfacing the roads in low noise emitting, open graded asphalt to ensure noise impacts are maintained within acceptable levels;

(iii) lowering the road profile to cuttings where possible to minimise visual impacts; however, this is not possible at all locations given the undulating coastal dune topography of the area;

(iv) preserving as much of the good quality remnant vegetation within the road reserve as a natural visual barrier to the project; and

(v) sensitive revegetation of degraded and cleared areas to assist in providing the best possible visual outcome to the Dawesville community and through traffic.

It is acknowledged that the Dawesville deviation will impact on some residents who have bought land along the road reserve subsequent to the inclusion of the reserve in the town planning scheme in 1983. However, the community can be assured that every effort is being made to keep these impacts within acceptable levels. These impacts must be balanced against the significant benefits of the Dawesville deviation, such as safer road geometry, intersection configurations and enhanced efficiency of this important route to the south west of the State.

WEBB, MR MARK, BUSINESS EXIT ASSISTANCE

671. Dr EDWARDS to the Minister for Forest Products:

I refer to Albany truck diver, Mark Webb, who applied for business exit assistance under the forest industry structural adjustment package and ask -

(1) Can the minister explain why Mr Webb has been offered only $32 500 plus legal and accounting costs, and why this offer has been made only verbally to Mr Webb?

(2) Why did the minister feel it was necessary to tell GWN television the amount Mr Webb will receive, more than 24 hours before informing Mr Webb or his family?

(3) On what date did the Government formally put money into its business exit scheme?

Mr OMODEI replied:

(1)-(3) I am amazed that the member for Maylands continues to ask this question when the policies of her party could put dozens of people in the same position. I regret the comments I made to GWN. At that time I understood that the Minister for Commerce and Trade was processing the matter. The amount involved is $33 500. Accounting and solicitor's costs have brought the total to $37 500. I understand the figure being offered to Mr Webb is in the vicinity of $40 000 and that is being processed at this moment.

Although I have not met Mr Webb, officers of my Department met him yesterday to explain the methodology in relation to the business exit application. The same methodology was adopted and assessed by the Valuer General's Office. It is similar to exit methodology that occurred in New South Wales and other States. The Government is trying to ensure a process is in place that can be applied to other people. As I explained when the member last asked the question, I expect that decision will be signed off, if that has not already occurred.

WEBB, MR MARK, BUSINESS EXIT ASSISTANCE

672. Dr EDWARDS to the Minister for Forest Products:

I have a supplementary question. I repeat the third part of my question. On what date did the Government formally put money into its business exit scheme?

Mr OMODEI replied:

In this situation?

Dr Edwards: Yes.

Mr OMODEI: The moneys are available under the business exit scheme. They have been part of the budget and have been available - some under Commerce and Trade - for business assistance. They included the Bunnings Forest Products Pty Ltd engineering situation, the Simplot Australia Pty Ltd situation and the Greenbushes timber workers' assistance package for redundancies. The member may recall that when Whittakers Ltd was put into liquidation the workers were not to receive any assistance, but the Government provided money in that circumstance.

On behalf of Mr Webb, the Government approached his trucking company, GMAC Financial Services, to ensure it did not sell the truck. We have recently been in touch with the firm to ensure the truck is available should he receive the funds required to get it out of hock. We have tried everything we can. I admit it has taken some time, because this has been the first such example of a business exit due to the impact of the Regional Forest Agreement.

The SPEAKER: Order! I compliment members on many more questions being asked today than yesterday. I wonder why!