WESTERN AUSTRALIA

Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE COUNCIL

Wednesday, 5 May 1999

Legislative Council

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

APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)

Ruling by President

THE PRESIDENT (Hon George Cash): In the course of debating the Appropriation (Consolidated Fund) Bill (No 3) last night, Hon John Halden sought a ruling on whether an item of $1m for the Western Australian Coastal Shipping Commission was properly included in the Bill. Because the Chairman of Committees occupied the Chair when the matter was raised, I advise the House that the Chairman concurs in the ruling I am about to give.

My reading of *Hansard* suggests that the point was raised in the context of the arrangement contained in section 46 of the Constitution Acts Amendment Act 1899. In 1997, when I last considered that provision as a result of a ruling sought by the same honourable member, I said -

> Section 46 of the Constitution Acts Amendment Act 1899 governs the legislative powers of the Council and Assembly in relation to Bills that impose taxes or appropriate public funds for the purposes of the State.

Relevantly, section 46(2) precludes this House from amending a Bill appropriating public moneys for the ordinary annual services of the Government. It follows that the Council's power to amend an appropriation that is not for the ordinary annual services is unaffected but subject nonetheless to subsections (3) and (4). The ruling is sought on the basis that the item was included in a Bill relating to recurrent services, rather than properly being included in the No 4 Bill, which deals with capital. However, section 46 does not depend on such a classification. As my predecessors have pointed out, section 46 draws a distinction between the ordinary annual services and those that are not. When ruling on the Appropriation (Consolidated Fund) Bill (No 1) of 1994, President Griffiths said -

> . . . an acquisition of land or of buildings by a department in the course of administering an existing service is . . . equally as much a part of the ordinary annual services as the purchase of a box of elastic bands . . . The fact that the land acquisition ranks as the purchase of a capital asset is irrelevant for the purposes of section 46: It is either a purchase made as part of the ordinary annual services, or it is not. No sound distinction is made between recurrent and capital expenditure if that distinction is said to arise from section 46.

I agree with the former President. Accordingly, the argument put by Hon John Halden must fail but, on the same principle, I must also say that the Bill, taken in a section 46 context, would itself be irregular were it to be shown that the recurrent expenditure itemised in the Bill was not for the ordinary annual services. However, it seems to me that, if only for explanatory purposes, I should deal with the matter on the basis that Hon John Halden is arguing that the item is not part of the ordinary annual services.

The circumstances under which this matter arose are, as I understand it, that the commission settled a breach of contract claim arising from its failure to provide a vessel. The out of court settlement reduced a potential liability of $4m to $1m. It would be impracticable for the Government to budget, in the usual way, for costs and monetary awards arising from litigation to which the Crown is a party. As clause 3 of the Bill states, the appropriations are being made in respect of "extraordinary or unforeseen" payments. Although the commission might be said to have foreseen the legal consequences of its acts, it is fair to say that the money paid as settlement is extraordinary in the sense that it is not an everyday occurrence. Nevertheless, legal liability in the course of business is a reality equally as much for crown instrumentalities as it is for private operators. The ongoing nature of legal liability as an incident in the conduct of a business distinguishes this matter from the one-off nature of the items that this House requested be deleted from the ordinary annual services appropriations in 1989. In 1997, I said that my approach to section 46 issues would be that -

> the test for deciding whether a particular provision in a Bill for the ordinary annual services of the Government can be characterised as one reasonably appropriate and adapted to meeting the cost of providing a service ordinarily supplied by the Government.

Similar considerations apply to appropriation Bills based on expenditure under the Treasurer's Advance Authorization Act 1996. Although, factually, there might be a quibble about the commission not providing a service, nonetheless the out of court settlement arose in the course of the commission's business, so that the item is properly characterised under the test I have propounded as being for the ordinary annual services of the Government.

However, the Bill itself makes no reference to the extraordinary or unforeseen expenditure being for the ordinary annual services. Accordingly, I cannot say whether the Bill complies with the requirements of section 46, because it is not framed in those terms. Without a reference in an appropriation Bill to its section 46 purpose, whether or not the appropriations are recurrent or capital, the Crown takes the risk that this House may decide to treat such a Bill as one that may be amended. That point was made very clearly in 1994 and it holds good in 1999.

I rule that the point of order cannot be upheld.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Extension of Time

Hon Kim Chance presented a report of the Standing Committee on Public Administration seeking an extension of time in

which to report on the Labour Relations Legislation Amendment Bill (No 2) 1997 from 6 May to 24 June 1999, and on his motion it was resolved -

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

[See paper No 1020.]

STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Inquiry into Management of Western Rock Lobster Fishery - Amendment to Motion

Resumed from 22 April on the following motion -

That the Standing Committee on Ecologically Sustainable Development inquire into the management and sustainability of the western rock lobster fishery having regard to-

(1) The accountability of the Department of Fisheries and its rapid rate of expansion.

(2) The potential conflict of interest of the department in being a regulator and having involvement in projects and marketing.

(3) A proportional redirection of better interests development funding to the Western Australian Rock Lobster Fishers Federation to enable it to better represent the interests of lobster fishers.

(4) The ability of Western Australian fishers to store, feed and sell their product anywhere within Australia.

(5) The establishment of a seafood exchange in Fremantle.

And that the ESD Committee report its findings and recommendations to the House on or before 2 June 1999.

to which the following amendment was moved -

To delete the words "Ecologically Sustainable Development" and substitute "Public Administration".

HON B.M. SCOTT (South Metropolitan) [4.12 pm]: Previously, I drew the attention of this House to the reasons that the amendment should be supported and that the Standing Committee on Public Administration should be substituted for the Standing Committee on Ecologically Sustainable Development in the first line of the motion moved by Hon J.A. Scott. The motion asks that the Standing Committee on Ecologically Sustainable Development inquire into the management and sustainability of the western rock lobster fishery having regard to the accountability of Fisheries WA and its rapid rate of expansion.

I pointed out previously that I have been a member of the Standing Committee on Public Administration for six years and I am currently the deputy chairman of that committee. The name of that committee was changed from the government agencies committee to the Standing Committee on Public Administration. It is important to remind members who intend to support this amendment of the functions of the Standing Committee on Public Administration and how it is compelled to comply with its specific terms of reference. Clearly this inquiry does not come within the terms of reference of the Standing Committee on Ecologically Sustainable Development, but should appropriately be carried out by the Standing Committee on Public Administration.

For the purposes of clarification, I outline the functions of the Standing Committee on Public Administration. It must inquire into and report to the House on the means of establishing agencies; the roles, functions, efficiency, effectiveness and accountability of agencies and generally the conduct of public administration by or through agencies including the relevance and effectiveness of applicable law and administrative practices. That is the first function of the committee. Clearly this inquiry fits into the role of a public administration inquiry. The other functions of the committee are on page 147, schedule 1 of the standing orders, so there is no need for me to go through them.

Also for the purposes of clarification, at the point of closure of the last debate I was highlighting to the Chamber the sorts of inquiries that the Standing Committee on Public Administration had undertaken in the past two or three years. I nominate those inquiries to make it clear to the House that this is a public administration issue and it should be directed to the Standing Committee on Public Administration as per the amendment moved by Hon Simon O'Brien.

In June 1997, the committee began its review of operations for the fourth session of the thirty-fourth Parliament as the Standing Committee on Government Agencies. On 18 June 1997 a discussion paper was introduced to the Standing Committee on Public Administration and it is that point I am referring to historically when the standing committee changed its name. The committee looked at outsourcing to the private sector and the United States Office of Federal Contract compliance programs. In June 1997, the committee looked at the scrutiny of outsourcing and contracting out in the United Kingdom with specific reference to the Thatcher legislation for compulsory competitive tendering which is commonly known as CCT.

On 27 November 1997, the committee examined in detail the distribution adjustment assistance scheme known as DAAS. We looked at the grievances presented to us by the milk vendors. That clearly sat within the province of the Standing Committee on Public Administration. On 4 December 1997, the committee conducted an inquiry into the events surrounding the denial of tenure to the late Dr David Rindos of the University of Western Australia. The Standing Committee on Public Administration was presented with a challenge to its terms of reference - I am talking about a similar situation with this amendment - because the university put forward a very strong case to deny that it was a government agency. It was the role of this committee to prove categorically that all universities in this State are classified as government agencies. Therefore,

we do not look at issues outside our terms of reference and that very clear direction was given to us not only in the thirty-sixth report, but in our deliberations. In December 1997, the Hairdressers Registration Repeal Bill was referred to the Standing Committee on Public Administration. Again, it looked at the Hairdressers Registration Board, which was considered to be part of a government agency. The School Education Bill was referred to the committee in 1998 and an interim report was submitted. Another issue that the committee looked at very closely in 1998 was the government domestic air travel and associated reservations contract. That dealt with grievances of a competitive nature in domestic air travel in the country. The committee then looked at an addendum to its ninth report, on the School Education Bill, a further report on the distribution adjustment assistance scheme and the committee's third and fourth reports on the dairy industry.

It is clear to me that an inquiry into the western rock lobster fishery fits squarely within the terms of reference of the Standing Committee on Public Administration. Therefore, I support the proposed amendment to the motion.

Amendment put and a division taken with the following result -

Ayes (15)

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

Noes (16)

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

Pair

Hon M.D. Nixon	Hon Ken Travers

Amendment thus negatived.

Debate (on motion) Resumed

HON MURIEL PATTERSON (South West) [4.23 pm]: As members are aware, the rock lobster industry is undergoing a review with regard to the national competition policy. Secondly, the west coast rock lobster fishery is set to become the first fishery in the world with eco-label accreditation. Thirdly, the Office of the Auditor General is likely to finish its work shortly on a performance examination of Fisheries WA.

Amendment to Motion

Hon MURIEL PATTERSON: Therefore, I move the following amendments to the final paragraph of the motion -

(1) After the words "ESD Committee" add the words "commence its inquiry after 1 August 1999 and"; and

(2) Delete the words "2 June 1999" and substitute the words "2 December 1999".

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.25 pm]: I would like to check one detail with the mover of the original motion before the House brings this matter to resolution. Has he received an assurance that the proroguing of the Parliament will not affect the opportunity for the ESD committee to conduct its inquiries in the time frame that is envisaged by this amendment? This motion, if amended and carried, would have a binding effect on the ability of that committee to conduct the inquiry. It would be a tragedy if this amendment were to defeat the intention of the motion.

HON J.A. SCOTT (South Metropolitan) [4.26 pm]: Yes. I had not agreed to the amendment. I had spoken to the Leader of the House and to Hon Bruce Donaldson about this matter, and they had indicated that they had concerns about certain other inquiries being completed and fitting in with this inquiry. I was happy to accommodate those concerns. I have also been notified that fishermen would find it difficult before at least the middle of June to give evidence to this inquiry, so I was happy to have the time frame moved back. I have received an indication from the Government that it is happy to ensure that this matter will go back onto the Notice Paper when the Parliament resumes following prorogation. On that basis, I am happy to go along with this amendment.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.28 pm]: I have not given the member any assurances -

Hon Ljiljanna Ravlich: Why not? He asked you for an assurance.

Hon N.F. MOORE: I would like to finish my first sentence, if Hon Ljiljanna Ravlich would not mind waiting for a second or two. I was saying that I have not given the member any assurances up until this time. We had a brief discussion in the corridor, and it was mentioned - the first I heard about it was at 3.55 pm - that it would be a good idea to start this inquiry after 1 or 2 August because of a number of other inquiries that were taking place. Some talk was engaged in about an amendment to satisfy that requirement. As I understand it, Hon Bruce Donaldson told Hon Jim Scott that in the event that this amendment was put forward and agreed to, the normal processes post-prorogation would be put in place; in other words, the motion would need to be put back onto the Notice Paper and be re-instigated. I do not have a problem with that, but I not given an assurance up until this time. I say now, so that there is no misunderstanding, that as far as I am concerned, we

will put the processes in place to reinstate this motion after prorogation. However, if the House decides otherwise, that is its business, not mine. It makes sense to me to hold this inquiry after 1 August, when these other reports have been completed. However, I am concerned about the way in which the Labor Party continues to take the view that this industry needs to be looked at by a parliamentary committee.

I have no doubt that people in the rock lobster industry will read *Hansard*, and be interested in the views of the Leader of the Opposition; namely, that he considers the views of the Greens (WA) in this House to be more important than the industry's view.

Hon Tom Stephens: Hon Ljiljanna Ravlich will look after the industry far better than you ever will!

Hon N.F. MOORE: As long as people know why the Labor Party is giving some thought to not supporting the amendment: It thought consideration of the motion might be delayed and that it may not come on the agenda again. People must understand that point. However, I give the assurance that I will put in train the process to have the motion reinstated to have it determined.

Amendments put and passed.

Motion, as Amended

Question put and a division taken with the following result -

Ayes (15)

Hon Kim Chance	Hon N.D. Griffiths	Hon Mark Nevill	Hon Tom Stephens
Hon J.A. Cowdell	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Cheryl Davenport	Hon Helen Hodgson	Hon J.A. Scott	Hon Bob Thomas *(Teller)*
Hon E.R.J. Dermer	Hon Norm Kelly	Hon Christine Sharp	

Noes (14)

Hon M.J. Criddle	Hon Peter Foss	Hon Simon O'Brien	Hon W.N. Stretch
Hon Dexter Davies	Hon Barry House	Hon B.M. Scott	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon N.F. Moore		

Pairs

Hon Ken Travers	Hon Murray Nixon
Hon John Halden	Hon Ray Halligan

Question (motion, as amended) thus passed.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION REPORTS ON DAIRY ADJUSTMENT ASSISTANCE SCHEME

Endorsement of Recommendations - Motion

HON HELEN HODGSON (North Metropolitan) [4.35 pm]: I move -

That -

> The Legislative Council endorses the recommendations of the third and sixth report of the Standing Committee on Public Administration into the dairy adjustment assistance scheme and in particular requests that the Minister for Primary Industry pay further assistance to former vendors, in accordance with the guidelines recommended by the committee in its sixth report, as soon as is administratively possible.

This motion has come before the House in this form because of the procedures recently implemented for the handling of committee reports. An hour on Thursdays is allocated to debate reports, which is an excellent innovation; however, we can move no substantive motions to endorse such reports at that time. This motion has been around the Legislative Council for some time. I will outline why it is important to go beyond noting the reports and to endorse their recommendations so justice can be provided to people affected by the scheme in question.

First, I am sure most members have received some correspondence on this matter from aggrieved former milk vendors affected by the dairy distribution adjustment assistance scheme. Some of the circumstances described in this correspondence is heart wrenching. A group of people effectively have had their rights taken away from them by the action of the Parliament in 1994. They have watched an inquiry of a committee of this place take evidence and hand down three reports. However, they are yet to see the recommendations of those reports acted upon.

I will outline some extracts from the correspondence I have received. These are in no particular order. The first is a letter from Mr Ernie Dockrill in which he indicates some of the personal consequences of the scheme. He was affected by the 1994 changes and he received some compensation. He wrote -

> Not knowing what to do with my life after 25 years in the milk industry, but desperate to try and get some income for my family, and some personal dignity, I started a car wrecking yard from scratch.

> A big mistake which cost me a lot of money. But I wonder how you would go if someone told you that you had to restart your life, with virtually no income, middle aged, a family and short on skills?
>
> In April 1997 our funds were running out and my wife made me register for the dole. I cried. I had never before needed a hand out in my life.
>
> After several months of unemployment and being told that you are basically too old for a job and therefore never likely to get a job, we were forced to sell our much loved home, pay back the money we owed the bank and try again to buy ourselves a job or face a life of misery.
>
> This is what your law has done to us Mr House, and to other former vendors. That is why we need and must get full and fair compensation for our former business.

A further letter from R. and B. Thornton-Smith, which outlines some of the impact of this scheme, reads -

> Do you consider that we are disadvantaged to have had our business taken from us for nothing and simply gifted to a few chosen vendors? We all owned our own businesses and were very comfortable. Our family had been with Masters for more than 40 years, and that was their reward.
>
> We have just received from Mr. House his latest offering, which says he has agreed to implement a further assistance payment to former distributor/vendors which is approx. one-third of the capital value of our lost (or stolen) business. Would that be taxable? What we want and deserve is full compensation as recommended by the Standing Committee on Public Administration, which is the market value of our business, plus 3 years lost trading, plus the Dairy Authority Assistance Scheme.

Some of the circumstances described to me indicate a history of hardship among vendors affected by this situation. I have a list of some of the problems experienced by people since the 1994 changes. Mr George Nagy lost his business and livelihood supporting three families. He was forced into retirement, although he took an expensive, lengthy but ultimately successful legal action against Masters Dairy. His son, Glen, was deprived of taking over the family business. He has also had surgery for bowel cancer. Sixty-year-old Wally Hinricks suffered loss of business and income, all savings and superannuation. He was forced into a new profession and has chronic sinus problems and a complete loss of sense of smell. Robin Hendriks, Wally's wife, has had three years of unexplained illness finally diagnosed as Sjorgrens syndrome, a chronic auto-immune disorder by which the body gradually defiles itself. Her tear and salivary glands are destroyed, and she has Carpel tunnel in both wrists. It can eventually destroy all joints and possibly all organs. There is no cure. I have already described Bernie Dockrill's circumstances. Lorraine Dockrell, Bernie's wife, has had sudden unexplained losses of consciousness and is still undergoing tests for suspected stress-related causes. Special mention is made here of Tom Charles, a milko until the day he died, disappointed and disbelieving that half his business could be taken from him and given at no cost to the person who used to lease it from him. Tom was not paid a cent.

What do those people have in common? There are probably several factors. First, they were milk vendors affected by the 1994 changes. Second, they have all lost their businesses and their income and had to find other means of support. Third, most of the illnesses have a stress-related component. That shows that the impact of this decision went far beyond economics and simply a redistribution and reorganisation of the milk industry. It had a severe and long-lasting personal impact on those milk vendors whose businesses were effectively taken from them without their receiving full compensation.

This matter commenced with legislation in 1994. Obviously I was not in this place at that time, although I was fascinated to read the debate and I will refer to it later. It is one of the first matters that went before the Standing Committee on Public Administration when I joined it after being elected to this place. Over 18 months it took up much of the committee's time and received serious, deep and I hope constructive thought. It is one of the issues on which we had to go far below the surface and do much investigation with the assistance of some very capable assistant research officers in undertaking much legal analysis to determine what were the rights of these people, if they had any. Over that 18 months we tabled three separate reports.

The inquiry commenced on 3 April 1996. The evidence was taken by a subcommittee of which at that time I understand the Minister for Transport and Hon Kim Chance were members. In 1996-97 they heard in detail these stories about the people to whom I referred in setting the scene. The third report of the Standing Committee on Public Administration was tabled in November 1997. It made a number of fairly specific recommendations. The committee formed the view that there was a clear moral and ethical duty to support the need for further assistance for some of the former licensed milk vendors to an extent that fairly reflected the value of the loss of the right they held as licensees in the milk distribution industry and that they had property rights that were lost as a direct consequence of the Act.

This matter came in for some debate in the report because it involved some fairly complex issues of property and constitutional law; that is, what is the right to compensation, and does the State have a legal responsibility to provide compensation. Unfortunately the answer was that the right to compensation is enshrined only in the federal Constitution, not in the state Constitution. That means that, in a sense, this Parliament is legally able to take property from its citizens without paying proper compensation. I do not think any person in this Chamber believes that is a moral and ethical thing to do. The fact that it is allowed because the Constitution provides no protection is not a precedent we want to set; yet that is exactly what happened in this instance.

The DAAS is specifically described as an adjustment scheme; in no way is it described as compensation. Nevertheless, a huge anomaly has arisen. We have taken property from citizens without providing fair compensation. Morally and ethically this Parliament should not be doing that. In the light of that the committee recommended that further assistance be paid to

some of the former vendors as soon as administratively possible. It indicated at the time that the DAAS had $4m that had not been distributed and that could be used to fund further assistance payments. A problem arose in our third recommendation in which the committee said that the means of calculation of a further adjustment assistance package was not an issue for it to determine, although it recommended that the Government review the arbitration system to assist the former vendors most aggrieved by the altered legislative arrangements.

I am sure that every member of the committee who signed that report in good faith would say that we should have gone further in the light of what has occurred since then. I think we were uncertain about whether it was in our terms of reference. What happened next in the saga probably overcame that problem because we ended up with a specific reference to examine the issue. For that I thank Hon Derrick Tomlinson. When we debated and noted that report, he made what I always remember as his "tomato speech". He drew an analogy between a ripe piece of fruit full of flavour and a piece of fruit which, although it looked ripe, was missing the essential ingredient - the method of calculation. Therefore, the committee received a reference back from this place which asked it specifically to look at the question of how compensation should be calculated. The committee set to with the best of will and tried to determine the best method of calculating compensation. I will draw on my previous background in accounting to say that in business valuations there are many different methods to be adopted and factors to be taken into account. The committee was faced with trying to develop a formula that took these factors into account and concluded with a result that seemed to be fair to the milk vendors.

The committee's sixth report, dated 18 June 1998, was tabled. In that report the committee explained its examination of the issues and how it determined a method of calculating an appropriate amount of compensation. This is where the matter starts to get complex and difficult to go through and where the clearest difference between the committee and the minister emerged. Essentially the dairy adjustment assistance scheme is designed as a distribution adjustment. The intention of the legislation was to find a way of paying former milk vendors for the proportion of their business that was related to the sale of white milk. White milk is made up of whole milk and some low fat products but does not include some of the other items that would normally be considered part of a milk vendor's business, such as yoghurts, cheeses and flavoured milks. I do not think skimmed milk is included in the white milk category.

Hon N.F. Moore: Coloured milks?

Hon HELEN HODGSON: And coloured milks. All the other factors which are part of a milk distributor's business were not covered by the licence. The question was: What are we supposed to be compensating for? Are we compensating for the licensed product or the loss of business? The scheme says clearly that we are compensating for the licensed product. However, I say that that is totally unfair, unethical, immoral and unjust. How can a milk vendor who cannot sell milk possibly continue the business of selling all these other products? It just does not happen that way. There are many factors to be taken into account.

Hon Kim Chance: Nor would the dairies sell them the products, which is an important point.

Hon HELEN HODGSON: That is the other point: The dairies would no longer provide them with these products if the dairies were not selling them white milk. Therefore, effectively, the whole business has been taken away from these people because they cannot sell one particular product and they are being compensated only for the loss of the distribution of this one product. That makes a mockery of the notion of compensation to people for taking property from them. When one considers the value of a milk round, there are negligible stock and few assets involved. The bulk of the value of the business is made up of goodwill. Goodwill, as a legal concept, is made up of the intangible value of the milk round and everything that goes with that round. If vendors lose the basis of their rounds they lose their goodwill totally and have no value left; yet all they are being compensated for is one component. It is a totally crazy situation to say that they are being compensated only for the white milk component.

There is a side issue here which is significant although not something that I recall the committee having addressed in its reports. In my discussions with milk vendors, it has been brought to my attention that changes were made to the licensing arrangements. When one particular vendor received his original licence in the 1980s the licence did not refer specifically to white milk products. The licence was a licence to sell milk products in their generic form. Subsequent changes to the licensing system narrowed that down to white milk, and that was then used as the basis for the dairy adjustment assistance scheme. If that is the case, we have taken property away twice by stealth, once by saying that the basis of the licence has been altered and secondly by the implementation of the DAAS. However, that is not an issue picked up specifically by the committee in its report or recommendations.

When the committee developed the sixth report, it considered the methods of calculating compensation. The committee recommended that it should assess the initial loss on the capital value of the vendor's business prior to deregulation. The capital value was to be calculated by multiplying the annual gross margin of the vendor's business prior to deregulation by, for metropolitan businesses, a multiple of no less than two and no more than four; in the case of country businesses the committee left it to the independent arbitrator to determine the figure. The reason for that is the obvious difference between metropolitan and country rounds. We then recommended some adjustments to take account of the amounts already received; that was to avoid double dipping. Essentially, it was clear from the committee's report that it believed that the figure should be based on the capital value of the vendor's business. The committee therefore discounted the entire basis of the original amounts that were paid. We said that it is not by reference to the white milk covered by the licence, but should be by reference to the capital value.

I suggest to this House that most people understand what capital value means. It is taken generally to mean the value that a person would receive for a business if it were in the normal marketplace. That is probably the best lay definition of the capital value of a business. Yet it is intriguing that the minister and his advisers seem to have difficulty in understanding

that notion, because further offers were made in September and October 1998; however, they were still based on the white milk value, the original terms of the distribution adjustment assistance scheme, and did not make any reference to the capital value of the business, in spite of the fact that the letter from the Dairy Industry Authority refers to the recommendation of the report. Therefore, it seemed strange to the Australian Democrats when we started receiving contact from milk vendors saying that although a further offer was being made, the minister was not picking up on the spirit of the report. As a consequence of that, in December 1998 we found ourselves, having further reviewed the matter, picking up and tabling a third report, which is the tenth report of the committee. That was then to deal with the fact that it had been brought to our attention that the recommendations of the previous two reports were not being met by the proposals that the minister put before us.

Debate adjourned, pursuant to standing orders.

[Questions without notice taken.]

ACTS AMENDMENT (FINES ENFORCEMENT) BILL 1999

Introduction and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [5.32 pm]: I move -

That the Bill be now read a second time.

Members would be aware that a fundamental purpose of the Fines, Penalties and Infringement Notices Enforcement Act 1994 is to ensure greater certainty and more expeditious enforcement of fines. Since the introduction of that 1994 Act some difficulty has been experienced in respect of the enforcement process, including the execution of fines enforcement warrants. In particular, the lack of flexibility of the fines enforcement process, involving rigid adherence to the legislation, at times inhibits fines enforcement. The application of the 1994 Act can therefore be problematic for particular persons or groups, in that when the processes of the Act are applied, they result invariably in the serving of either a work and development order or imprisonment - often many months after the imposition of the original fine. This is a reasonably common problem and it is in the interests of all concerned that it be addressed. Carrying out obviously futile enforcement action is a waste of time and money so far as government is concerned. This leads to the charging of further enforcement fees so far as the fine defaulter is concerned. It also increases the period of time between incurring the fine and enforcement - clearly an undesirable punishment practice.

One group of people that have complained of this are the communities in the central and western deserts. They say that the delay in enforcing community-imposed fines detracts from the effectiveness of the punishment and they are concerned at the accrual of fines because of the increased difficulty of enforcement where there is delay. Problems have been encountered there due to the dispersal and remoteness of the population, coupled with the fact that the majority of the population is tribal Aboriginal, with minimal income and few or no assets upon which a fine enforcement warrant can be levied. Moreover, the itinerant nature of the population causes further delays in enforcement. In particular, the police have considerable difficulty in making contact with fine defaulters for the purpose of serving orders to attend work and development or to execute warrants.

The purpose of these amendments is to address such problems and to support local communities that want to have a punishment system that community members can connect to a particular offence. A system that operates months later is not regarded by them as satisfactory or meeting their cultural needs. However, this Bill has much wider application to both urban and non-urban communities and to members of the public who have little chance of satisfying their fines. The Bill now before the House seeks to allow for fines to be converted to a work and development order, either in court or by the Registrar of the Fines Enforcement Registry.

This conversion will be in circumstances where an offender has no capacity to pay and licence suspension is likely to be ineffective, and will ensure that the courts' order will be dealt with in a timely manner and enforced whilst still fresh in the offender's mind. The proposed amendments pertain to those persons who meet all the criteria set out in the Bill, including having no means to pay.

There are other difficulties with people who have no means to satisfy fines whilst their vehicle or drivers licence is under suspension and these will be addressed in later amendments. In the meantime, at the suggestion of the Auditor General, I have instituted a broader fines write-off policy, particularly relating to fines under the old system, and this should also ensure the system is more up to date and effective.

The Fines, Penalties and Infringement Notices Enforcement Act 1994 is a reflection of the principle that the expeditious enforcement of court orders is a critical factor in maintaining an effective justice system. The amendments now before the House form a sensitive and practical measure designed to achieve a more expeditious enforcement regime, which target groups can better relate to. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

PETROLEUM SAFETY BILL

Third Reading

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [5.35 pm]: I move -

That the Bill be now read a third time.

HON TOM HELM (Mining and Pastoral) [5.35 pm]: I bring to the attention of the House the possible effects of any recommendations or results of the inquiry that is taking place in Victoria. I know that it is early days, but I wonder whether the minister is able to advise the House whether he thinks it will mean that this Bill will need amendment to take into account the results of the inquiry. Perhaps he could advise the House how the Government views the disaster at Longford in Victoria, given the timing of this Bill, and of the final outcome of the inquiry that is taking place.

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [5.36 pm]: This is an unusual request in a third reading but I will endeavour to respond to the member. Obviously the Government will take notice of any findings of the Victorian inquiry. If that on-shore incident has any relation to this Bill, which I do not think it has, that will be taken into account. I give the member that assurance.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

LIQUOR LICENSING AMENDMENT BILL

Second Reading

Resumed from 19 August 1998.

HON TOM HELM (Mining and Pastoral) [5.38 pm]: The Australian Labor Party supports the contents of this Bill that is being promoted by Hon Norm Kelly. As the House is aware, the intention is to reduce the impact of the monopoly or the dangers of a monopoly in the liquor industry in our State. The Opposition feels, as does the Government in most cases, that there should be competition in this field. I can probably speak with a little authority on this matter because I have been known to have the occasional drop or two in a liquor licensing outlet. If members look at the amount of alcohol consumed in the north west, they will see that the people there also have a bit of a record in promoting and living with the industry. The Australian Democrats deserve a certain amount of praise here, although I understand that the ALP was about to introduce something similar. Most members would support the measures being promoted by Hon Norm Kelly. The Bill is taking us in the right direction; it is appropriate. The Australian Labor Party supports the Bill and hopes the House does the same.

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.40 pm]: The Government and I strongly support the Bill introduced by Hon Norm Kelly. Prior to this Bill coming into the Parliament the annual general meeting of the Liquor Stores Association of WA resolved that it was most important that the legislation be passed quickly. In order to do that the Bill needs the support of all sides of the Parliament. An amendment Bill was passed in 1998 with all-party support for issues such as harm minimisation and tighter guidelines for the Director of Liquor Licensing when deciding whether to issue new liquor store licences. The amendment Bill gave more power to the director, rather than the licensing court, which involves a high cost for those who become involved. It restricted the ability of a person coming into an area to apply for a new liquor licence if one had been disallowed in the previous 12 months. A person with a big bankroll and good lawyers can, over time, break a small operator who is trying to defend his patch.

Many people do not think we should allow him to defend his patch, and some people might believe they have a good argument. However, I do not accept that they do. I have practised as a chartered accountant and I am an advocate of small business; it is the backbone of the nation. I have driven across the metropolitan area from the Great Eastern Highway to the Mitchell Freeway up to Joondalup. I saw wonderful small business outlets and factories. They may begin with one or two employees, but they grow all the time. Those people put their money back into the community. They buy milk, sugar and butter and pay doctors, dentists, chemists, and school fees. That money is recycled and it is very important to the economy.

Hon Tom Helm: What about the GST?

Hon MAX EVANS: We will have to come back to that on another day. Hon Tom Helm knows that the President will not let me get onto that; I have to stick to the Bill. Those things are very important.

Because the Liquor Stores Association wanted to see the Bill passed and did not want it delayed by referral to a parliamentary committee, it said to Hon Norm Kelly and that it would not press for Sunday trading or for a 50 per cent cap on liquor stores, which were debateable points.

At the time that Hon Norm Kelly gave notice that he would introduce this Bill, the association had not pushed any further on Sunday trading. As I said to its representatives at a recent function, "If they move to Sunday trading we might make it obligatory." They would run a mile. Only the big firms would benefit. Many owner operators do not want to trade on Sunday, mainly because they do not pick up much trade. There is a mix of views within the Liquor Stores Association about Sunday trading, and it has not pressed the issue. We all knew the intent of Hon Norm Kelly's Bill.

The previous legislation had strong support from all parties, and I understand there is strong support for this Bill. There have been extraneous arguments about the national competition policy, and legal opinions have gone back and forth across the

country. The Victorian Government had a cap of 8 per cent, but it found ways around that and used them as and when it wanted. A review of the national competition policy recommended that the cap be removed, but it is still there.

My view, and the view of the coalition parties, on many aspects of the Liquor Licencing Amendment Bill is that liquor per se and easy access to it creates many problems. The problems associated with liquor are different from those created by drugs. I support the role of the Director of Liquor Licensing. I took the director to Roebourne, which has a huge problem with alcohol. Hon Tom Helm would know that. I am trying to get the communities together to solve the problem. Between about 900 and 1 000 people at Roebourne are Aboriginal. Roebourne has a liquor store and a hotel. We are trying to help. A couple of years ago the director was invited to Geraldton. At the south end of town there was a group of Aboriginals with a drinking problem. By 8.00 am they were at the liquor store to get more alcohol. One of the liquor stores did the right thing and would not handle packaged liquor. The community wanted to close liquor stores from Greenough to Geraldton until noon. The director said that that was not reasonable, and that the town had to control the problem. That has been done.

We are doing a lot more with opening hours. They are no longer obligatory hours. Trading hours are more flexible. The hotel hours at Fitzroy Crossing and Halls Creeks were changed with agreement between the hotel owner and the community. That was long overdue in Halls Creek, but it has now been done. Everybody there is better off. In large part we have been looking at easy access and more liquor outlets. I do not think they are necessary.

The next issue that will come up is the sale of liquor at petrol stations. Caltex, Ampol and BP are trying to get licences to sell liquor. We must look at that closely. Does the community really need that? One case has gone to a judge and he did not allow it to proceed. He is looking to the Government for guidelines. Do we really need that many more liquor outlets? That is one part of it.

Another issue is control of the market and price. The liquor tax is about to change again. The tax is levied on the price of liquor plus freight. People can get around that by splitting the freight costs with another company. There is also the greater buying power of the bigger firms. I will not buy into the argument about national firms with 80 per cent of the retail market. That is for someone else to decide. I used to say to clubs and hotels that wanted gambling that people were not marching the streets crying out for gambling. It was those who would make a profit from gambling - the hotels and clubs - who were demanding gambling, not the people who were going to lose money. The money goes into federal taxes, to bonuses paid to chief executive officers who make a lot more money for the company and the shareholders around Australia; it does not provide any direct benefits to the people of Western Australia, those families who work in small business. A lot of the people who buy lottery agencies, Totalisator Agency Board agencies and liquor stores are superannuants. They have invested $100 000 or $200 000 to buy a business as an annuity for the next 10 or 20 years so they can send their children to school and buy what they want. I am strong in my view that we should protect them, because they are the salt of the earth. Some people buy very badly and some people pay too much for TAB agencies. That is just the way the formula goes. However, they still make a living although they work very hard for it. Lottery agencies are the reverse; people pay a lot of money for them and they make a lot of money out of them, and that is because it is a very successful product. In fact, a liquor store owner in my electorate said, "Max, do you think we could sell Lotto tickets?" He was not making much money in the liquor store. Some months earlier I told him that he would do better by selling the liquor store and acquiring a lottery agency; he would probably make more money out of it because he would not have so much money tied up in stock and so on. Liquor stores are becoming more efficient. Multinational companies and other large companies have computerised stock control. They all carry far too much stock which will not be sold in their communities, therefore they have $200 000 or so worth of stock on hand. They are managing things better because they want to make a living.

We strongly support the Bill. It is a good move and contains provisions we originally were to bring forward in our own legislation. I explained then why the legislation was to be changed, and Hon Norm Kelly announced what he would do.

HON DERRICK TOMLINSON (East Metropolitan) [5.51 pm]: My party, the Liberal Party, has made a decision on the Bill and I will not vote against that party decision; however, one should not confuse regulation of the consumption of alcohol with regulation of the market. It is generally recognised that alcohol, or the overconsumption of alcohol, is detrimental to health. Some authorities argue that moderate consumption of alcohol, particularly a couple of glasses of red wine a day, is good for one's health.

Hon Max Evans: You drink that for good health, don't you?

Hon DERRICK TOMLINSON: No, I do not drink red wine every day. I try to moderate my drinking, although I enjoy a cabernet sauvignon. Throughout this century the argument has been presented that because alcohol, or the abuse of alcohol, is detrimental not only to the individual but also to society - as is the abuse of other poisonous substances and narcotic substances - the answer must be to control or to regulate the sale of alcohol. The minister has presented that argument. Whether or not we agree with that argument, it has been particularly strong throughout this century.

If we really want to do something about the consumption of alcohol, we should demystify it. I would rather see no licensing of alcohol outlets. Hotels as we know them in Australia are dinosaurs; they belong to a previous era. They belong to the era of six o'clock closing, the era of the six o'clock swill, and the era when it was assumed that men would knock off work, go to the pub and sink a few; but we do not do that any more. Why do we not do that any more? It is because we have countervailing laws throughout Australia which discourage people from drinking, even in restaurants. How many members are very cautious about drinking in the bar after this place rises? I suggest that many members are cautious. Why? It is because of the drink-driving laws. At 6.00 pm on my way to dinner on Saturday night, there it was at the bottom of the Kalamunda hill - the booze bus! I blew in the bag. Zero. I thought that was the end of it. Driving home at 11.00 pm, what did I find at the bottom of the Kalamunda hill? The booze bus! I blew in the bag - 0.25. I was very abstemious. Why? It was because I was aware of that.

The consequence is a change in our social habits, hence hotels belong to a previous era of the control of the marketing of liquor. They are dinosaurs. We should accept, perhaps, a tavern or access to alcohol as part of a meal. Even liquor stores are particularly profitable. Why? It is because of the demise of the six o'clock pub swill drinking habit or going to the pub and drinking as recreation. We are now taking alcohol home. The trend now is to go to the liquor store and buy alcohol. Women in particular find it much more comfortable to go into liquor stores. They found discomfort in going to hotels. They were prohibited from the front bar, anyway, and they had to go to the ladies' bar or the lounge. I look forward to the day when we treat alcohol just as we treat -

Hon B.M. Scott: Women?

Hon DERRICK TOMLINSON: I would not beat alcohol and throw it on the floor!

Hon Greg Smith: Would you raise it to your lips?

Hon DERRICK TOMLINSON: Hon Barbara Scott asks whether I would treat alcohol as I treat women. The answer is no. I have too much respect for alcohol.

If I may get to the point, I look forward to the day when we treat alcohol as we treat any other beverage or food and we go to our corner deli or Coles Myer supermarket - I do not care where we buy it - and treat it sensibly and buy it as part of our weekly food and beverages shopping and not have the encouragement, "Come to XYZ liquor store and buy a carton of whatever at a special price; we will also give you a hippy of rum." Why? It simply encourages people to take the six o'clock pub swill home with them, so we get the consequences of the overconsumption of alcohol. We should not confuse the regulation of a dangerous substance - alcohol abused is as dangerous as any substance - with the regulation of the market. That is what I heard from the minister.

Let us now consider the monopoly. According to page 452 of *Hansard* of 19 August 1998, Hon Norm Kelly's concern was -

> . . . the growing dominance of Coles Myer in the liquor store sector of the market through its Liquorland, Vintage Cellars, and Charlie Carters chains.

If he objects to the word "monopoly", I will use his words - that is, his concern about the growing dominance of a particular chain. Why? Hon Norm Kelly's argument is that if it is more than 30 per cent -

> The trend towards an oligopoly will devastate an industry sector that is largely made up of independent small businesses.

I subsequently interjected -

> What about the mail order ones?

Mail order wine sales - bear in mind that mail order sales are from the eastern seaboard - represent 12 to 15 per cent of the total wine market in this State.

Sitting suspended from 6.00 to 7.30 pm

Hon DERRICK TOMLINSON: It is necessary to recapitulate on a number of the points that I have made. The first point is that because the Leader of the House was elsewhere on parliamentary business when I commenced my remarks, he might not have heard my comment that the party to which I belong has taken a position on this Bill, and I do not intend to vote against the party decision.

Hon N.F. Moore: And so you should.

Hon DERRICK TOMLINSON: The Leader of the House knows me better than to assume that I would not do something that I should, or that I would do something that I should not.

I also made the point that in this debate, the control of the marketing of alcohol as an attempt to control the consumption of alcohol should not be confused with the argument about the control of the market in order to avoid monopolies within it. They are two quite separate issues. I also made the point that historically, the attempt in Australia to control the consumption of alcohol has had the contrary effect of encouraging within our society a trend towards binge drinking; and in my opinion and in the opinion of some medical professionals, binge drinking is the worst and most hazardous form of alcohol consumption. I also made the point that I look forward to the day when our community takes an attitude towards the consumption of alcohol, and therefore towards the marketing of alcohol, where alcohol can be purchased anywhere as part of our regular weekly shopping for food and beverages. That is probably a hope which will be realised well and truly after I am interned and occupying myself elsewhere.

I then turned to the argument that was presented by Hon Norm Kelly. When I used the term "monopoly", I heard an interjection from Hon Norm Kelly, which I took to be an objection to my use of that word. I referred to page 452 of *Hansard* of 19 August 1998, where in his opening comments on this Bill, Hon Norm Kelly focused clearly upon one group of vendors - the Liquorland, Vintage Cellars and Charlie Carters chains, which are part of the Coles Myer conglomerate. At a later stage, having argued that Coles Myer through that conglomerate holds 16.8 per cent of the total number of liquor store licences in Western Australia, Hon Norm Kelly then referred to this as a trend towards an oligopoly that will devastate an industry sector that is largely made up of independent small businesses. I have made the point that the mail order sales of wine in this State represent 12 to 15 per cent of the total wine market; in other words, 15 million cases of wine annually. I confess that I was surprised to hear that figure, because whenever I get my credit card statements, for some reason I get an offer to buy a premium dozen, or to invest in a wine club, and every time I open my favourite magazine - *Women's*

Weekly - I get the same sort of offer, and I do not think I am peculiar in that, but I do not buy any alcohol through those sorts of markets. All of those 15 million cases of wine per year originate from the eastern seaboard. The Minister for Finance may be able to advise me, but I understand that regardless of the current arrangements for the reimbursement to the States of excise levied by the Commonwealth, any revenue that is generated from those sales by mail order that originate from the eastern states but are consumed and paid for in Western Australia is generated not for Western Australia but for the source State.

The main purveyor of those 15 million cases of wine per year that are sold by mail order is Cellarmart, which is owned by Carlton and United Breweries Ltd. If we want to talk about an oligopoly, it would be better to talk about an alcohol producer which is both a wholesaler and a retailer. As I said when I interjected on Hon Norm Kelly - the interjection was unfortunately unheard, and therefore unanswered - if we are serious about regulating the market against monopolies or oligopolies, this Bill does nothing about that sector of the market. We need to bear in mind that the trend in marketing nationally and internationally is towards mail order; and if not mail order, direct telephone order or direct bank debit.

Hon Norm Kelly: Or Internet?

Hon DERRICK TOMLINSON: Indeed, Internet. Just as we have seen the change from hotels to liquor stores, we will see in our life times the shift from liquor stores to direct marketing of one kind or another. There we will see oligopolies of a quite substantial kind.

My final point is to observe that yesterday I presented a petition in this place which contained 11 235 signatures. That petition was organised by Liquorland. Anybody who had bought alcohol at Liquorland in the past few weeks would have seen, as I have seen when I have visited to speak to my constituents in Liquorland, a petition on the desk with an invitation to sign. Those 11 000 people are the customers of the focus of this Bill. Let us be quite clear about this: The focus is Liquorland and the Coles Myer group. I know that Hon Norm Kelly has talked about other markets and Woolworths, but quite clearly the focus of this Bill is the 16.8 per cent of liquor store licences which are held by the Coles Myer group - the 32 per cent of the market which is held by the Coles Myer group. What this Bill is all about is cutting down the successful operator; the good old Australian habit of attacking the tall poppy.

Coles Myer fought back and organised the petition. I presented a petition with 11 235 signatures opposing this. Under standing orders the petition stands referred to the Standing Committee on Constitutional Affairs. That committee will be obliged to investigate and report. I wonder whether Hon Norm Kelly will contemplate deferring a decision on this Bill until an opportunity has been given for the committee to investigate, hear evidence and report to the House on that petition.

Hon Norm Kelly: I will contemplate it.

Hon DERRICK TOMLINSON: He will contemplate it with a smile on his lips and I can guarantee that within 15 minutes we will be voting on this Bill. Compare that with the attitude of Hon Norm Kelly and the Australian Democrats on the Regional Forest Agreement. What do we hear about the RFA? In spite of five years of consultation, there was not proper consultation. What else did we hear? After the discussion paper was presented for public comment some 18 months ago, we heard there was not proper consultation. In spite of 18 months continuous consultation with the key stakeholders and the community, what did we hear? There was not proper consultation. Yesterday what did we hear? We heard that the agreement was signed before the opposition parties were given an opportunity to see what the RFA was about; in other words, the complaint was being argued that the democratic process had been abused because the Government had not done what the Opposition and the Australian Democrats wanted.

We now have a situation where a democratic process of petition has been followed. The processes of this House have been implemented in the past few years to guarantee that notice is taken of petitions in this House. That democratic process is now in train. Will we wait until we have the democratic assessment of those processes by a committee of this place listening to evidence, gathering evidence and making statements on that evidence? No, in fact the tyranny of numbers in this place will ride roughshod - I think those are the words - over the democratic process, to quote Hon Norm Kelly.

Hon Norm Kelly: The tyranny of democracy.

Hon DERRICK TOMLINSON: The tyranny of numbers. There are some inconsistencies.

Several members interjected.

Hon DERRICK TOMLINSON: Do you not love those socialist democrats, Mr President? They say that they will embrace democracy until such time as it threatens their control. It is the iron law of oligarchy; that every institution based upon democratic principles functions to protect its own source of power. There are our socialist democrats and our Western Australian democrats. I will not vote against this Bill, but my point is that there are inconsistencies in the behaviour of the proponents of this Bill and there is inconsistency in the argument in support of the Bill. The Bill is not about regulating the market to control monopolies; it is about targeting one tall poppy - the Coles Myer group.

HON J.A. SCOTT (South Metropolitan) [7.47 pm]: It was very pleasing to hear Hon Derrick Tomlinson sticking up for the downtrodden and under-privileged groups in our society, like the Coles Myer group. It is always good to see defenders of people who are being unfairly treated in such a way. It gladdens my heart to see that members of the Liberal backbench have their priorities right in these matters.

Hon Derrick Tomlinson: I always like to gladden the heart of a communist.

Hon J.A. SCOTT: Indeed.

The PRESIDENT: Order! I am trying to listen to Hon Jim Scott.

Hon J.A. SCOTT: When amendments to the Liquor Licensing Act went through this Parliament I was concerned about the possibilities of monopolies arising in this State, as we seem to get in a whole range of areas, whether in reality or not; in some cases it would seem they are not monopolies and in other cases they are. Liquorland and other large groups will be kept to a reasonable section of the market. That is quite pleasing to me. I have not been all my life a permanent, academic, city-dwelling sort of person like Hon Derrick Tomlinson. Such practices may work very well in certain environments but in rural communities it does not matter whether it is Liquorland, banks or anything else; the reality is that monopolies are not good for communities. We might have got a monopoly if it were not for the provisions put forward by Hon Norm Kelly. He has done the right thing. I am in total disagreement with Hon Derrick Tomlinson. I can see that Liquorland may feel unfairly singled out. That may be true, but the principle is the matter which should be addressed rather than the particular company. If we really did have a level playing field in business in Australia, it would be a different matter, but we know that very large organisations, such as Coles Myer, have all sorts of buying practices which discriminate against smaller businesses.

There is no such thing as a level playing field. In many cases, the big buyers, wholesale and retail, get special prices. The day we have laws which state that the small quantity buyer can buy products for the same price as the large quantity buyer, I will probably agree with Hon Derrick Tomlinson. We do not have that situation in this country unfortunately. Such a measure is required more than anything if we are to have a level playing field.

Having been a manufacturer and supplied large organisations, I know how they operate. They have certain advantages for a manufacturer: One knows one will receive a cheque at the end of the month. However, they are also capable of applying more conditions on the suppliers than can be applied by small organisations. In fact, the small operator does not really stand a chance against these organisations. When the monopoly is complete, the community will suffer. Even when these operators have control of the market, changes will take place. An eye opener regarding the type of business arrangement we have in this country when compared with the situation overseas was when I was in Europe prior to entering this place. Members of the Delegated Legislation Committee do not get a lot of trips overseas, so it was not since entering this place! I saw in Europe the wide variety of choice that communities have.

Hon Derrick Tomlinson: In a deregulated market.

Hon J.A. SCOTT: It is also a market not controlled by a few big players. One does not see the same products everywhere.

Hon Derrick Tomlinson: Yes, it is deregulated.

Hon J.A. SCOTT: A row of lighting shops on a strip would all sell different products. Consumers consequently have a better choice of products. Supermarkets in Europe are much smaller than the giant operators seen in Australia and consumers have a better deal. That is the reason I support Hon Norm Kelly's amendment. Far too few companies control a vast number of our products, be it clothing, alcohol or anything else. That is largely to do with the size of our population.

We in this place have a duty to ensure that the smaller operator has an equal opportunity to exist. To be honest, I am not sure whether cheaper products will be available for the consumer as a result of this amendment. It is very hard to judge. Products might be cheaper for five or 10 years, but it may not be the case over 20 years. My feeling is that if we have huge monopolies in this State, it will be to the detriment of choice in the community and to employment. For a number of reasons, I support the Bill, which is about a free society at the end of the day. If people are too powerful in a community, they end up with not only marketing power but also political power.

Hon Derrick Tomlinson: Which page of *Das Kapital* was that from?

Hon J.A. SCOTT: Maybe the member could advise me, as my comments are not based on reading; I speak from experience. I have some experience of life. I probably have not had the same experiences as Hon Derrick Tomlinson, probably do not have the same allegiances as the member, and certainly have a different understanding of life.

Hon Derrick Tomlinson: I would hope so - we are different people.

Hon J.A. SCOTT: So would I. Vive la difference, as they say.

This legislation will achieve more good than harm. I acknowledge that this Bill may seem unfair to Liquorland, which is the largest player in the market. If Hon Derrick Tomlinson is concerned about the way Cellarmart is doing business, I invite him to put forward some amending legislation. I will vote for it.

Hon Derrick Tomlinson: I support the anti-trust laws.

Hon J.A. SCOTT: We can right both wrongs. I support the Bill and recommend it to the House.

HON NORM KELLY (East Metropolitan) [7.57 pm]: I thank members for their contribution to, and support for, this Bill, which is not about preventing legitimate traders competing in the marketplace, but about ensuring that competition remains in the marketplace. Debate on the Liquor Licensing Amendment Bill last year raised the issue of whether a cap was needed on the number of licences issued under the Act to any one operator. It was clear from all players in the liquor industry that last year's Bill was very important and needed to be passed as quickly as possible. The cap and Sunday trading for liquor stores were issues that did not receive a full hearing and the focus of amendments which they would otherwise have received.

The minister mentioned in his speech the impact that small businesses have in our society as employers. At a recent Senate hearing meeting held in Perth concerning the market domination of retail chains, it was interesting to hear the comments of

independent grocers comparing the number of employees small businesses employ with those employed by a large retail chain. On a ratio of turnover, small business employs a larger number of employees than does big business.

The minister mentioned that in the retail grocery market we have 80 per cent domination by the big three retailers in this country. Therefore, it is important for Parliament to legislate to prevent such market domination, rather than listening to stories, as I heard at the Senate hearing, of the dangers and problems which can occur when those few retailers dominate. This becomes increasingly important when we debate the sale of what can be a very dangerous drug when not used in a responsible way. I appreciate the comments made by Hon Derrick Tomlinson. He has a knack for challenging what we debate in this place. That has occurred on many occasions and I appreciate his contribution tonight. I agree with Hon Derrick Tomlinson's comments that we must not confuse the regulation of the consumption of alcohol with the regulation of markets. They are two separate issues. However, they are unavoidably linked because the way in which we deal with one of those issues can severely impact on the other issue.

It is easier to dominate a regulated market. Hon Derrick Tomlinson referred to the ideal world in which we have the total deregulation of liquor. I agree with the member that we can aspire to the ideal society. A responsible society could take that on board and act accordingly. Unfortunately, we do not have that type of society at this stage and we must regulate that market. In a regulated market it is far easier for an operator to gain dominance within that market, because we have barriers to entry and the natural market forces for entry and exit from such a market are not in play.

I refer members to the Pharmacy Act in which we have a similar situation. In this State pharmacists are allowed to own or control a maximum of two pharmacies. Once again those regulations apply to the supply of what can be very dangerous drugs. These areas have some similarities.

Hon Derrick Tomlinson also spoke about hotels being anachronistic in the way they operate in the marketplace these days, and why they may be losing market share to liquor stores. In recent years those hoteliers who have sufficient financial backing have been able to adapt to the changes of our modern society, to the increased and changing regulations such as new drink-driving laws and the like which have decreased onsite consumption. Those cashed-up hoteliers can adapt their hotels accordingly. They sell a high proportion of non-alcoholic products and attract a clientele which is more likely to stay on the premises for longer because they provide entertainment and the like. Other hotels which are not in such a good financial situation find it more difficult to make the necessary changes.

As a point of interest I refer to the review of the Liquor Licensing Act conducted under the national competition policy. I made a submission on behalf of the Australian Democrats. I suggest that we should look at a possible revamp of the way we license outlets in this State. One suggestion was that we should split the onsite and take-away components of hotels with separate licences. In essence sometimes there are similarities between a hotel take-away and a liquor store. Until we get to that point, if we do, we must regard them as different entities catering for different markets. For instance, it was mentioned that liquor stores cater for a higher proportion of women than do hotels, because women are more comfortable shopping in liquor stores. Also we have different trading hours in recognition of the different markets.

I disagree with Hon Derrick Tomlinson's comments that the focus of the Bill is against the Coles Myer group. The Coles Myer group will obviously be the most immediately affected retailer. However, we must also look at growing domination by Woolworths which has had a large increase in the number of liquor stores in this State.

Hon Derrick Tomlinson: It is a growing presence rather than domination.

Hon NORM KELLY: Yes. We need to pre-empt possible domination so we can act before the fact rather than try to clean up the mess afterwards.

The issue of the mail order business is important. It has grown exponentially in the past few years. This issue could possibly be better dealt with at a federal level. I know that at the moment the Federal Parliament is looking at how it will tax mail order sales. I know that the Wine Industry Association has asked for a discount on tax excise for cellar door and mail order sales. There is a large difference between the two. I can see good arguments for regarding cellar door sales in a more lenient way. However, I do not agree there is a similar argument for mail order sales.

The petition that was tabled yesterday, as Hon Derrick Tomlinson said, contained over 11 000 signatures. However I disagree with him that we are not allowing the democratic process to operate by the fact that we are debating this Bill tonight. The Bill was introduced almost a year ago in this place and has been in the public arena since then. It has attracted public comment and public discussion. As part of the Australian Democrats' democratic processes we have consulted with all industry groups in this regard. I have had a number of meetings with the Liquorland group and other representatives from Coles Myer. I have consulted with members of the Liquor Industry Council, liquor wholesalers, the Australian Hotels Association, the Liquor Stores Association, independent operators and consumers. It seems that the only group opposing this Bill is the Liquorland group, and I can understand its opposition. It would place a restriction on Liquorland's conduct in this State. I respect the views of those 11 000 people who have signed the petition. I am not too sure of the situation in which that petition was presented in the stores to give people who were signing it a more thorough understanding of what they signed. The petition states -

> We the undersigned residents of Western Australia are opposed to the proposal which is currently before Parliament which will restrict Liquorland (Australia) Pty Ltd's capacity to grow by placing a restriction on the number of liquor stores that any licensee may own in Western Australia.

I have no problem with that statement of fact that is presented in the petition. We need to look at how much information those people were given. As Hon Jim Scott pointed out, we can see that there may be some short-term price benefits when

a major retailer comes into the market. However, the long-term impacts need to be carefully considered. Once competition is removed from an area, it becomes far easier for the remaining trader to increase profitability. I will not repeat the arguments I gave in support of the Bill in my second reading speech.

The Australian Democrats are not singling out Liquorland. A few years ago, in the minister's response to the Mattingley report, he stated that a 10 per cent cap should be included in the Liquor Licensing Act. I cannot recall what percentage of stores Liquorland had at that stage, but I believe it was just below 10 per cent. We know that the Government did not continue with that policy in its amending Bill, but Liquorland has now increased its number of outlets to 16.4 per cent of the total number of liquor stores in Western Australia. Woolworths (WA) Pty Ltd currently has only 5.1 per cent of the total number of liquor stores in this State, but in the last year or so it has increased its number of outlets from 16 to 23, which is a substantial increase.

Ideally, there should be a cap on turnover and not the number of outlets, but this is the most effective mechanism that could be found of placing a limitation on turnover by controlling the percentage of outlets. Of the top 50 liquor stores in this State on the basis of turnover, 28 are owned by Liquorland, eight by Woolworths and another eight by Liberty Liquors. That means only six independent operators of liquor stores are in the top 50 stores for turnover. There are arguments about the percentage turnover that Liquorland and other major chains control. It is a moveable feast, so the Democrats feel that this is the best solution. It is not an attack on the Coles Myer group. It should be able to trade, and I will move an amendment in committee to ensure that it is able to retain the licences that it has acquired in good faith. However, it would be wrong for the Parliament not to act to prevent further increases in market shares.

I have received many responses from independent liquor store operators and their customers, who feel that this is a good way of providing for the viability of small businesses, while allowing major retailers to have a fair and adequate share of the retail market. I thank members for their contributions and urge all members to support the Bill.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Norm Kelly in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Division 1A inserted in Part 3 -

Hon NORM KELLY: I move -

Page 2, line 18 to page 3, line 2 - To delete all the words after "(1)" and substitute the following -

In this Division a "**class**" consists of -

(a) all hotel licences; or

(b) all liquor store licences.

This amendment is simply a clarification, because the existing Act contains no definition of "class". There could be some confusion because the Act contains category (a) and category (b) licences. Category (a) licences cover hotels, liquor stores, clubs, nightclubs and the like. This is a way of indicating that the intention of the Bill is to act upon those licensed premises that can sell takeaway liquor. This amendment strengthens the Bill.

Hon MAX EVANS: My experts have checked the amendment and they approve of it.

Amendment put and passed.

Hon NORM KELLY: I move -

Page 4, line 18 to page 5, line 5 - To delete proposed new section 37E.

The Democrats recognise that the proposed section requiring the existing situation to be remedied within five years could be a limitation on licences that were fairly acquired. For that reason, I have moved to delete the proposed section, and I foreshadow an amendment that will provide a fairer solution.

Amendment put and passed.

Hon NORM KELLY: I move -

Page 6, after line 3 - To insert the following -

Saving

37H. Where there is a prohibited concentration of the holding of licences by a licensee or group of licensees immediately before the coming into operation of the *Liquor Licensing Amendment Act 1998* such holding of licences may continue as if that Act had not been passed provided that no licence of the same class shall be granted or transferred to that licensee or group of licensees so long as the prohibited concentration continues.

Obviously, the only retailer affected by this will be the Liquorland group, which has 16.4 per cent of the liquor store licences in this State at the moment. This will allow Liquorland to retain all those licences without time limitation. However, it would prevent Liquorland from acquiring any other liquor store licences while it continues to own more than 15 per cent of the current licences. This can be resolved by increasing the number of liquor store licences issued until, through natural processes, Liquorland's percentage drops below 15 per cent. Alternatively, Liquorland could divest itself of existing liquor stores, but it would not be allowed to acquire any new licences until its percentage had dropped below 15 per cent.

Hon MAX EVANS: There has been a great deal of discussion on this matter, and the Government supports the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 5 put and passed.

Title put and passed.

Bill reported, with amendments.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)

Second Reading

Resumed from 4 May.

HON LJILJANNA RAVLICH (East Metropolitan) [8.21 pm]: I will continue my remarks about Radock Pty Ltd, trading as the Master Builders Association Group Training Scheme Trust, and an agreement to enable that $2 company to lease premises in Welshpool. On 19 August 1998 the Minister for Lands wrote to Harvey McLeod and Associates about a meeting which the minister suggested should be held. The final paragraph of that correspondence states -

> Harvey, in view of the recent advice received from the Department of Contract and Management Services . . . I have asked DOLA to organise an urgent meeting to discuss the proposal with you and representatives from CAMS and the Master Builders' Association.

That meeting took place at the Department of Land Administration office in Midland on 7 September 1998, a couple of weeks after the correspondence was drafted by the minister; that is, 19 August 1998. The minutes of the meeting are very interesting. Attending the meeting were representatives from the key players in this matter - three from DOLA; one from the Department of Conservation and Land Management; and three from the Masters Builders Association, they being Harvey McLeod, the Chairman of the Group Training Scheme Trust, Eric Bevan, the Managing Director of the Group Training Scheme Trust, and Michael McLean, the MBA Executive Director.

The outcomes of that meeting are also very interesting. The minutes record one outcome as a "win/win/win" situation. For DOLA it was deemed to be a win because the matter was dealt with expeditiously and "was able to accommodate the needs of a customer and Government encouragement of industry training initiatives". I hardly think it is a win, win, win situation when $70 000 of taxpayers' money is allocated to the wrong people and the required precautionary checks are not carried out for not only that facility but also the very expensive equipment that is still available at the Welshpool site. I am a little surprised that recorded in the minutes of the meeting was a win, win, win outcome. For Western Australian taxpayers it is a loss, loss, loss. Some very serious questions must be answered. I will put those questions to the Government and I expect a response from it in due course. I can assure the Government that this issue will not go away.

DOLA was to arrange a Land Act lease of a portion of the site to the Master Builders Association. The lease agreement was to include an option to convert the lease to freehold at any time during the lease term. That is an absolute nonsense and should not happen. It is not right to convert this lease into freehold, given that it was given to the wrong people and that those representing Radock Pty Ltd had misrepresented their position and purported to be associated with the Masters Builders Association when that was not the case. According to DOLA, the lease term could be set at nine years. Terms of 10 years or more need town planning approval and that might be a complex matter, so it was decided that a term of nine years would save lot of pain for all concerned. I understand the first lease is for three years and there are probably options following that.

By way of a response from the Master Builders Association, Harvey McLeod expressed appreciation for the prompt and positive handling by DOLA of the request from the Master Builders Association for consideration of the interests of the MBA in the portion of the site facility. We could except no more, given that the director of Radock Pty Ltd was handed something on a platter, without his being accountable or honest in terms of what he was representing. The proposal by DOLA for a lease agreement with the option to convert to freehold he found to be very acceptable. Why would he have found otherwise, given, firstly, the initial price for the lease arrangement, and, secondly, the very favourable option of converting the lease into freehold somewhere down the track? We must ask how many other private companies are given this level of support by the Government. From my knowledge of the vocational education and training area, this is very much an exception. I do not know of any group training scheme that has been treated so favourably by a Government. It begs the question: Why was such preferential treatment given to Radock Pty Ltd, or why should such preferential treatment have been given to the Master Builders Association in any event, even if that association had been directly involved with the group training scheme - which, of course, we all know was not the case?

The Master Builders Association undertook to survey the workshop equipment and agreed a settlement price with CAMS

for the equipment to be retained on site. I mentioned in my speech yesterday that it is very unusual to conduct business with goods not being put out to open tender and the most competitive price being sought on behalf of taxpayers, but rather just as a sweetheart deal with preferential treatment given to this training organisation. Many questions must be answered, some of which also relate to the value of the annual unimproved rent, the current improved rent and the proper market value, particularly in relation to all the equipment.

On 18 December, Eric Bevan, the Managing Director of the Group Training Scheme Trust, wrote to Mr Peter McNally, the Manager of the Land Administration Services Branch at DOLA, advising him how the lease agreement should be drawn up for the said property, and he started to come clean on this whole issue.

He writes in a letter dated 18 December 1998 -

> Dear Peter,
>
> We would bring to your attention that the proposed Lease Agreement for the above property should be addressed, Lessee;
>
> Radock Pty. Ltd. (Trustee for and Trading as)
> MBA Group Training Scheme Trust
> . . .
>
> The signatories are the Trustees,
>
> Mr. Harvey Stuart McLeod Chairman of Directors
>
> Mr. Eric Bevan Managing Director and Secretary

In this correspondence, he, for the first time, brings to the attention of the Department of Land Administration that Radock Pty Ltd is an independent non-profit company established in March 1992 as a trustee for the Master Builders Group Training Scheme. He goes on to explain that situation, and I will not go through the details of that. Surely that must have rung warning bells to the people at DOLA who have been directly involved in this case.

On 18 December Radock Pty Ltd received the okay to lease the premises. It was able to access the site on 8 January 1989 and that is represented in correspondence from Peter McNally, the Manager of Department of Land Administration Services, to Mr Eric Bevan, the Managing Director of the Master Builders Group Training Scheme Trust. However, the situation between the Master Builders Association and the Master Builders Group Training Scheme Trust and the state of their relations had not become apparent until 18 February 1999. Unfortunately by that time it was all too late. In correspondence to Peter McNally, Eric Bevan highlights for the first time that, from 15 February 1999, parallel relationships will conclude with the Master Builders Association Group Training Scheme Trust and that it will continue operations under the trusteeship and management of Radock Pty Ltd. That was a situation which DOLA had not expected to occur and as a result of its occurrence it left many question marks over many issues which needed to be answered with regard to this matter. However, by that time it was too late because the lease agreement had already been put into place.

I refer now to a file note dated 5 March 1999 and signed off by Dennis Gray, who was the team leader from DOLA. It is a file note in response to the letter sent by the Master Builders Association which I have referred to extensively during the course of this debate. It was the letter dated 23 February 1999 which was sent out by Michael McLean, the Director of Master Builders Association, to all and sundry. This one was addressed to the chief executive officer of DOLA. It was concerned about two paragraphs in this piece of correspondence. For the record I will read out those two paragraphs -

> Until recently the MBA has, in its view, rightly considered the Group Scheme to be a part of the MBA and has promoted it as such. The existing shareholders have made it clear that this is not now their view, and are prepared, if necessary, to operate the scheme independently of the MBA.

The second paragraph of concern reads -

> Whilst the MBA initiated the proposal to acquire the former PWD/BMA workshop facility in Welshpool as an industry training centre, please be advised that the MBA is no longer associated with the current action of Radock/MBAGTS to obtain this centre.

That was on 23 February 1999, but by that time the damage was done. This file note is very telling in terms of the embarrassment which it must have caused to the Department of Land Administration and to the minister responsible because the file note states -

> I have telephoned Mr Michael McLean the Director of the MBA regarding his letter of Feb 23rd 1999 and in particular the penultimate paragraph.
>
> Mr McLean confirmed a number of points which are listed in dot point below.
>
> - The MBA is intending to be a training authority (presumably by setting up another trust) in the future with a requirement for a facility.
> - The nature of the special arrangement between the MBA and the MBAGTST is not only severed but is antagonistic.
> - Apparently a union based scheme operates nearby and in competition with the MBAGTST and according to McLean they are unhappy about the favourable rent conditions. Who told them?

That would imply some secrecy and some wrongdoing, and that this has all been under the counter and nobody is supposed to know about what is happening. That is scarcely a hallmark of good government, yet this is the way this Government does business. The file note continues -

- The budget for the MBAGTST is $4 million per annum and therefore a worthwhile enterprise to be overseeing/managing.
- DOLA has sent a copy of a draft lease to the MBAGTST and to all intents and purposes is a firm offer.
- If it is decided that the MBAGTST has misrepresented its claim it is debatable as to whether the lease offer could be withdrawn.

That really begs some questions about how facilities are put out to tender and whether they go through the appropriate supply process to ensure that due diligence is carried out to find out to whom the money is being awarded and whether these people are who they purport to be. Clearly in this case they were not the people they purported to be because the Government thought it was making a preferential sweetheart deal with the Master Builders Association when it was actually supporting a $2 company with two shareholders. That is a rort! Many questions must be answered. If the Government thinks for one moment that this will go away, I assure it that it will not.

Michael McLean, a director of the Master Builders Association, has obviously had a bit of pressure on him in recent times because of this issue and he has gone to great lengths in a newsletter to tell all and sundry what happened. Unfortunately my time is running out, but I will go through some of the more pertinent points and I will not have the opportunity to do them all, but I will pick up from point 12 onwards of the MBA newsletter -

> In September 1996 Harvey McLeod ended his employment with the MBA. As a result, the MBA lost its direct link to Radock. I was appointed a director of Radock in August 1997. Harvey McLeod and Eric Bevan were the other two directors and only two shareholders.
>
> Over the last two years, it became apparent to the MBA that Radock was becoming more involved in initiatives beyond traditional trade training in the building industry (eg a joint venture with a south-west TAFE college which included the training of apprentices outside the building industry, . . .

Therefore, we need to know what training was being undertaken, the exact extent of it, and whether it was eligible to be training outside the industry, particularly as Radock was being funded to train apprentices within the building and construction industry. There was also dissatisfaction about the establishment of a large training centre and Radock's or the MBA Group Training Scheme Trust's overseas activities. No other group training schemes enter into overseas activities. Why should the Government be subsidising a private company to conduct overseas activities? This needs scrutiny and some answers should be provided. It continues -

> As a result of these developments, the MBA wanted to have greater involvement in the management and decision making processes of Radock. The MBA wished to secure this through having an equal number of directors on the board of directors of Radock and the MBA having an equal number of shares in Radock.

Obviously, this offer was knocked back. It continues -

> The MBA and Radock have since September 1998 tried to reach agreement on these matters but ultimately without success.
>
> The MBA therefore decided to disassociate itself from Radock and the group training scheme.

As a result, Mr Michael McLean resigned as a director of Radock. On 18 March 1999 Mr McLean, on behalf of the MBA, commenced legal proceedings against Radock, Harvey McLeod and Eric Bevan seeking to restrain Radock from, among other things, continuing to trade using the acronym MBA. It continues -

> On 25 March the MBA discovered that Radock had changed its trading name to *Building Group Training Scheme* from 22 March 1999.

In this whole scenario, the MBA has obviously been left high and dry by its mates in government and its own people, such as Harvey McLeod, who had a long career in the MBA. Many questions require further investigation. We need to know - I want to put this on record because these issues will be pursued by me and my parliamentary colleagues - why the Government gave a $2 company with two shareholders a lease arrangement for a Welshpool property at a value 50 per cent less than that determined by the Valuer General. Did the Minister for Lands, the Department of Contract and Management Services and the Department of Land Administration believe that they were dealing with representatives of the Master Builders Association rather than just a $2 company with two shareholders? In view of the fact that Radock Pty Ltd was a $2 company and not part of the MBA, will the minister terminate the lease agreement that has been put in place, and will all sales of equipment also be ceased?

We also need to determine what has been the direct role of the Minister for Lands in this matter. Did he instruct DOLA to give preferential treatment to the MBA Group Training Scheme Trust on the understanding that he was giving preferential treatment to the Master Builders Association? I also want to know on what criteria this preferential treatment has been given to this $2 company. We need to ask who in government is responsible for not investigating whether Radock Pty Ltd was misrepresenting its claim and what further investigations will take place to get to the bottom of this matter.

Based on the information that I have, DOLA alone, without considering the Department of Contract and Management

Services - I am sure that this will apply to it also - has breached not only section 9 of the Public Sector Management Act, but also its own code of conduct and the public sector management code of ethics. This is clearly a situation which should be investigated as a matter of priority, not only by the Auditor General because this is not the way government should be doing business, but also by the Commissioner for Public Sector Standards.

I remind members that section 9 of the Public Sector Management Act 1994 deals with the general principles of official conduct. It clearly states that the principles of conduct are to be observed by all public sector bodies and employees, and they are to comply with the provisions of not only the Public Sector Management Act, but also any other Act governing their conduct. They are to comply with public sector standards and codes of ethics. There is nothing ethical about this case. They are also to comply with any code of conduct applicable to the public sector body or employee concerned. They are to act with integrity in the performance of official duties and are to be scrupulous in the use of official information, equipment and facilities. That has certainly not been borne out in this case, and many questions with regard to that need to be answered. They are to exercise proper courtesy, consideration and sensitivity in their dealings with members of the public and their employees. I will be asking the Commissioner for Public Sector Standards and the Auditor General to investigate this matter as a matter of priority.

Finally, the preferential treatment which has been shown to Radock, or the MBA Group Training Scheme Trust, in comparison with other group training schemes is nothing short of appalling. I am sure that other group training schemes would be delighted if they could identify a vacant government facility full of expensive equipment and get it at 50 per cent of the Valuer General's valuation. Many of them would be champing at the bit to take up that opportunity and also to take up the option of selecting all the equipment which they need for their training requirements. Many group training schemes, many organisations and skills centres are doing it pretty tough. They will want to know why such preferential treatment has been shown to this $2 company.

I will also write to them to demonstrate what preferential treatment this Government has given to Radock, or the MBA Group Training Scheme Trust. I would like to say to these group training schemes that they too could be beneficiaries of the Government's generosity, as displayed in this case. However, I am sure that I would not be at liberty to do that. However, I say to the Government that if the group training schemes start knocking on its door wanting the same treatment that has been given to Radock, it will have a serious problem because there is not enough empty space to satisfy all their demands.

The way that this matter has been handled is nothing short of appalling. Clearly, there have been deals within deals with regard to this Welshpool site. Preferential treatment has been given. The rules covering government purchasing policy guidelines, disposal of assets and just about any other rule which this Government has put in place to make agencies accountable have been flouted. The rule book has been thrown out the window, and DOLA has been able to do whatever it likes to meet Radock's requirements for a training facility. This was all done by the Government on the assumption that it was doing the Master Builders Association a favour, but unfortunately it got itself into a bit of a pickle, or a large pickle, depending on the way one looks at it. However, I can assure the Government that by the time I am finished with it in regard to this matter, it will be in a most uncomfortable position.

HON TOM HELM (Mining and Pastoral) [8.50 pm]: I wish to bring to the attention of the House a number of matters with regard to this appropriation Bill, and to advise the House of some of the issues that have been brought to my attention with regard to how this Government views the use of the resources of the State, particularly in the goldfields.

The House will recall that on Tuesday, 4 May I asked the Minister for Mines a question on notice about the number of exemptions that had been granted to mining companies with regard to leases that they hold in the goldfields area, in particular Sons of Gwalia and its associated companies, because I had been informed by the Minister for Mines in question on notice 986 that he had granted 1 167 exemptions to leases, amounting to a value of $28.8m. I also asked the minister whether he would table the reasons for those exemptions. I can see now that that probably was not an appropriate question, because he answered it by referring to section 102 of the Mining Act, which describes a number of the reasons for which exemptions may be granted. I need to explain to the House that gold leases in particular - that is, leases for exploration, prospecting and mining - are granted on the condition that the lessor spend a certain amount of money per annum, which ranges from $1 per year to tens of thousands of dollars; in one case it was $100 000. Those leases are granted on that condition to encourage companies to develop their leases and to expend money on prospecting if it is a prospecting lease, on exploration if it is an exploration lease, and on mining if it is a mining lease.

It was brought to my attention during the recent trip to Kalgoorlie by the Labor Caucus that mining and exploration in the goldfields area have been held up because of the problems associated with native title. Before those issues were brought to our attention by way of a demonstration by drillers in Kalgoorlie, I had been asked to investigate the contentious issues surrounding the holding of ground by mining companies from Esperance to Broome in such a way that it allowed the ground to lay dormant. That prompted me to ask the question about the amount of ground that is held by Sons of Gwalia. I am not singling out that mining company; I am singling out the Department of Minerals and Energy to a large extent and am trying to find out why these exemptions need to be granted. It was brought to my attention that there are ways of allowing small mining operations to mine minerals that are uneconomic for major mining companies and to not touch the mineral deposits that have been discovered by those major mining companies. In other words, smaller companies can mine by way of tribute leases that are held by other companies. It may well be necessary for the Minister for Mines to allow exemptions in some cases, but I am yet to be satisfied that there is a need for that. Section 102 of the Mining Act states that an exemption may be granted for the reasons listed in paragraphs (a) to (h). It concludes by saying that an exemption "may also be granted for any other reason which may be prescribed or which in the opinion of the Minister is sufficient to justify such exemption".

If that is the case, we are entitled to know why this State can forgo $28.8m worth of expenditure in that area. That money

would be useful if it were put into the goldfields economy to help alleviate the current 14 per cent-plus unemployment rate. We read sadly about miners who are being put off work on a regular basis because of the current downturn in commodity prices. We are told that Western Mining recently laid off 300 people in Kambalda, and that Kalgoorlie Consolidated Gold Mines Pty Ltd recently laid off 80 miners at its Mt Charlotte mine and northern ore body. The list goes on and on. In view of that, it is a wonder that Kalgoorlie is such a vibrant town and that house prices and other prices in the town remain at such a high level. That says a lot about the people of Kalgoorlie. It does not say a great deal about the assistance that has been given by this Government. It also says a lot about the way that the Government is quite willing to blame the situation on the problems that may be associated with native title and not to explain why a resource in the goldfields area - alluvial gold - is being allowed to lay dormant. Even worse than that, I have seen gold-producing land in the Kalgoorlie area buried by overburden from some of the major open-cut mines. Not only is an asset lying dormant in that it is not being mined by legal means, but also people are being forced to mine illegally, or take nuggets from the surface illegally, and to go onto leases on which they would be deemed to be trespassing if they were caught. These people have to flout the law because we have a Minister for Mines who grants exemptions at the drop of a hat. That is the way it seems, and that is the way the evidence presents itself. We can see from the tabled paper that was associated with question on notice 986 that hundreds of thousands of hectares of ground owned by one company has been excluded from work by any other company. That is a huge amount of ground. I ask the minister to provide the House with a map that shows where those leases are and the amount of ground that is covered by those leases, and the effect that it is having, as quickly as the Government provided a map to the people of Western Australia showing how much of Western Australia may be under native title claim.

In future we need to get the minister to tell us, or to table in this House, the reasons that he gives exemptions, given that we have a problem the seriousness of which we have yet to determine. The problem certainly has a serious side with the need for people to be able to go onto these leases and carry out the work that they are used to carrying out. My understanding is that if the Department of Minerals and Energy were to put its efforts into encouraging major mining companies or leaseholders to allow smaller miners and operators onto their leases, with the appropriate safeguards and an understanding of the minerals they were targeting, we would employ at least two people to every part of the lease that is granted. Given that we have such high unemployment, it would go some way towards alleviating that problem.

Problems are also associated with the department's ability to act under section 26A of the Native Title Act, under which the department has the responsibility to process applications. We are constantly told that the reason it takes so long to process those applications is that the department has a shortage of appropriate people to process them. If the department or the minister had the ability to channel part of that $28.8m into the department, maybe that would enable it to employ the appropriate number of people to carry out that work. At the moment there is a real problem in that the resource is being denied to people, particularly on a legal basis.

I spoke to the drillers who lobbied our Caucus in Kalgoorlie. I suggested to them that perhaps they were being misled. We were aware that members of the Liberal Party helped to organise that lobbying process in Kalgoorlie. However, when I talked to the drillers and tried to get to the bottom of their concerns, I understood that they were being informed that if it were not for native title, life would be rosy in the goldfields and there would be work for everybody. I have only the question on notice that I asked the minister about Sons of Gwalia. When one looks at the amount of country that Sons of Gwalia has covered by leases and that of other major companies in the goldfields, one sees it represents a substantial amount of land that nobody else can get onto because the leases are already owned by somebody.

Hon N.F. Moore: Why did you ask about Sons of Gwalia particularly?

Hon TOM HELM: I asked because a particular prospector wanted to get onto that land. I will give the minister his name.

Hon N.F. Moore: You have nothing against Sons of Gwalia?

Hon TOM HELM: Nothing at all.

Hon N.F. Moore: It sounds as though you have.

Hon TOM HELM: The minister can make it sound what he likes, but I am having a go at his incompetence.

Several members interjected.

The DEPUTY PRESIDENT: Order! This is not a dialogue across the Chamber.

Hon TOM HELM: The minister has eight reasons for allowing an exemption. If he feels like making an exemption, he can do so.

Hon N.F. Moore: Read out the first answer that I gave to your question. When does the time go back to?

Hon TOM HELM: To 1991.

Hon N.F. Moore: Who was the minister in 1991, 1992 and 1993?

Hon TOM HELM: Does it matter?

Hon N.F. Moore: It does matter.

The DEPUTY PRESIDENT: Order! This is not question time.

Hon TOM HELM: It is a fair comment. The minister says that we had incompetence in the past. I suspect that we did not. During 1991 to 1993, when the Labor Party was in power, unemployment in the goldfields was at a record low. Exemptions

were granted at that time. The fact is that the answer the minister provided to me demonstrates that far fewer exemptions were granted in 1991, 1992 and 1993. The exemptions have come about from 1993 to 1998, and there have been some in 1999. The number of exemptions has increased by God knows how much, but the most important thing we have is a 14 per cent unemployment rate. The Government also has a very convenient target in native title. The Government keeps saying that it is all to do with native title.

Hon N.F. Moore: If you think that native title is not a problem, you are a bigger fool than I think you are.

Hon TOM HELM: I can explain. As I explained to the drillers and anybody else who listened to me, it does not matter whether this Government gets its wish and every Aboriginal person in the State disappeared, because Aboriginals do not own the leases. This Government allows somebody else to own the leases and allows them not to work them in the way in which the lease provisions are written. As a result, there is no expenditure to the tune of $28.8m. The Government cannot blame native title for that.

Hon N.F. Moore: You probably could if you thought about it for a moment.

Hon TOM HELM: I think the minister had better keep his mouth shut because he is making a fool of himself and demonstrating his incompetence.

Hon N.F. Moore interjected.

The DEPUTY PRESIDENT: Order!

Hon N.F. Moore interjected.

The DEPUTY PRESIDENT: The minister will come to order.

Hon TOM HELM: I am willing to learn. If it is not the case, the minister will have plenty of time to get on his two back legs and answer back. In the meantime, he should shut his mouth and open his ears and learn just how incompetent he is. If he is not incompetent, he is a puppet of his department. If this minister thinks I am being cruel to him, I would be less cruel if he did not hide behind the native title issue and if he were not willing to target the Aboriginal people in this State. I would then be quite happy to back off a bit and listen.

Hon N.F. Moore interjected.

The DEPUTY PRESIDENT: Order!

Hon TOM HELM: The minister must admit that I went to him behind the Chair to discuss the issues and I got nowhere.
Hon N.F. Moore: Discuss what issues? Go and talk to Sons of Gwalia.

Hon TOM HELM: It is not the fault of Sons of Gwalia. It is doing what any other exploration or mining company would do. It is doing nothing wrong because the Act allows the minister to do certain things.

Hon N.F. Moore: Quite right, and your ministers did them as well for very good reasons.

Hon TOM HELM: That is fine. That is why in future the minister will not have any difficulty explaining or demonstrating what parts of section 102 he will use in native title circumstances. We are still waiting for the reason he overturned the Supreme Court decision in the matter of GHK Mining and Peko Exploration. The minister gave me an answer but did not explain why he gave an exemption. All I am trying to do is to get the minister to tell me exactly where I am wrong. How are the Aboriginal people of the goldfields responsible for a lack of development and exploration in the goldfields? Why are Aboriginal people responsible for half the drilling rigs lying idle in the goldfields? How does it happen that we can get Aboriginal people who do not own leases being responsible for a lack of what the goldfields needs; that is, the opportunity for people to go out and do what they do best? When I went to a meeting of the prospectors association, we were told - maybe the minister will tell me something different - that 80 per cent of the resource finds in this State were found by prospectors.

Hon N.F. Moore: You can believe that if you wish.

Hon TOM HELM: If the minster can demonstrate something different, that is fine.

Hon N.F. Moore: I have no intention of showing you. Your problem is that you have no background in the industry.

Hon TOM HELM: I have a little more background than my comrade the minister. I have been to the area more times than him, even thought it is in the minister's electorate. Our constituents have no work because the minister is incompetent or is a captive of his department. The Department of Minerals and Energy needs to look at whether the Act under which it operates is relevant to today's circumstances. If the minister had half a brain, he would understand that he can use section 102 any time he likes. For his sake, he could tell his constituents and mine why he thinks it is a good idea to grant leases with certain conditions attached with which no-one must comply. He could grant an exemption at the drop of hat. This would not be for the first time. He recently granted an exemption after the Warden's Court forfeited a lease - a decision supported by the Supreme Court. The minister agreed that the lease should have been forfeited; however, he changed his mind and allowed the exemption to apply for some other reason. He is entitled to do so.

Hon N.F. Moore: Why not read the answer I gave you. You might understand it then.

Hon TOM HELM: I have it here.

Hon N.F. Moore: There was a very good reason for that exemption. The company had invested a very large sum of money. An error was made, and I have sorted out the error.

Hon TOM HELM: The Warden's Court and the Supreme Court never found the error, yet the minister found it!

Hon N.F. Moore: You come in here trotting out the views of your mates in Kalgoorlie, who number two. They are giving you all this tripe.

Hon TOM HELM: The minister should talk to the prospectors' association.

Hon N.F. Moore: Talk to your colleagues who know something about the goldfields and whose position on the Labor Party ticket you are trying to get. You know that your No 3 spot on the ticket is in trouble. You want No 2.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! The Leader of the House will come to order. It is not time for short ministerial statements.

Hon TOM HELM: I bring to the attention of the House the furphy promoted by the Government that this situation results from a major problem with native title. Nobody is arguing that we do not have a problem with which we must come to terms. With a little goodwill on the part of this Government, we can come to a reasonable settlement and sort out the issues raised by native title. We cannot hide from that difficulty. Let us recognise that we have our problems. Let us not claim that the problems in this country are down exclusively to someone else. It is not only the situation with Sons of Gwalia. It is a culture and the way the department sees things. The minister says that if a mining company spends X amount of money developing a resource, that money can be divided among the other blocks the mining company owns. Maybe that is reasonable. I do not argue with that.

Hon N.F. Moore: When it is part of the same project.

Hon TOM HELM: The minister may under section 102 apply an exemption when a block or lease is uneconomic. That was part of the reasons given in the GHK Mining matter. I do not know enough about these matters. However, it has been argued by those who know about it and earn a living at this game that they can make the lease economic on the resources discovered by the exploration company; however, that may not be the target resource. The company may seek the alluvial gold on the surface of the lease rather than the resource below the ground which is expensive to extract. The company may want to leave that resource in the ground. In the process of going for the gold nuggets, it may discover bigger deposits which are of assistance to the original leaseholder. That is not a problem. That has been taking place for 100 years in a partnership between prospectors and the major mining companies with the funds available to develop major resources. That has not been denied.

The minister did not introduce this Act, which has been on the statute book for a long time. I have spoken to Hon Julian Grill and Hon Mark Nevill on this matter, and they say that there is a perfectly good reason for the minister's power to grant exemptions. I bow to their knowledge on these matters. It would be fine if the minister argued in that way. We may not need to change the legislation, but the aspect needs to be considered. If the exemptions are made public and everybody knows why they are made, people will deal with them as they see fit. Perhaps the minister, if not incompetent, is being told a different story by his department, which is undermining development in the goldfields. I do not work only on hearsay. I hear the stories, rumours and complaints, and the questions I pose are mostly prompted by people in the goldfields to whom I talk. This is not one or two people, as I am not silly enough to talk to only one or two people. A number of people prompt me to ask questions.

I now make an accusation. I have asked the minister umpteen times to address the issue, and he has told me we have a native title problem; if we solve the native title problem, all our problems will be over. It is not true. The minister can go some way to resolve the issue, and not treat his constituents as idiots and show them some respect in the process, by providing the reasons for making exemptions as part of his responsibilities under the Act. The minister has responsibilities to develop the industry. My colleagues Hon Mark Nevill and Hon Julian Grill have explained to me that we must find a way to encourage the major resource companies to exploit our resources. I cannot argue with that view. We do not have a problem with whatever it takes to achieve that goal. In the matter of GHK Mining-Peko Wallsend, about which I asked questions, it may well be that the lease can only be processed at the Kwinana Bell processing plant, which is flat out dealing with other major resource leases. The plant is running 24 hours a day. The company does not want to truck the produce another 15 or 20 kilometres to a mill to process it to make a quid. GHK Mining, who would probably be a Liberal rather than a Labor supporter, tells me that the minister or the Department of Minerals and Energy could assist by encouraging Peko to take a tribute out on the lease or to mine the alluvial gold in a way which does not interfere with the major resource so the company can exploit that resource at the appropriate time. That is all that is asked for.

By the same token, all the rules which apply to leaseholders seem to have been forfeited by the Warden's Court and the Supreme Court. The minister said some matter was overlooked. I suspect that he then applied section 102 and granted an exemption as it was an uneconomic resource at the time. He allowed for the forfeiture at the beginning of the process. It was only when certain activity took place that he changed his mind. The minister was not prepared to listen to debate on that matter. That was additional evidence which only he heard. It was not put before the Warden's Court or the Supreme Court. The minister did not forfeit the lease. We have $28.8m, and the goldfields has an unemployment problem. That problem should be addressed in some way - if not by using that $28.8m to develop a resource area, by putting it back into the goldfields economy and providing employment for people who earn their living by mining and exploration. We need to put that issue to bed.

We also to need to consider the role of the Department of Minerals and Energy. The department has a responsibility to

process applications under section 26A of the Native Title Act, although the minister may tell us something different. We have been told unofficially that the department is not processing the applications as quickly as it might because of a lack of resources. The minister's response is to blame the native title process.

Hon N.F. Moore: Why doesn't Hon Tom Helm ask someone how the process works, so he knows what he is talking about?

Hon TOM HELM: I know how the process works. The minister's answer was clear.

Hon N.F. Moore: The process does not work. It is a bit better with the federal legislation and the member knows it.

Hon TOM HELM: Even if half of what the minister said were true it would not take away the responsibility of the minister and his department to make sure that the resources in our State are developed properly.

Hon N.F. Moore: It would not make any difference to the native process if we had 10 000 people working in the Department of Minerals and Energy, because there are people with native title claims who will not negotiate.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! The chorus will settle down.

Hon TOM HELM: If the minister knew anything about the Native Title Act he would know that it is illegal not to negotiate in good faith.

Hon N.F. Moore: The Government must negotiate in good faith.

Hon TOM HELM: It does not say only the Government.

Hon N.F. Moore: It does.

Hon TOM HELM: It says that negotiation must take place.

Hon N.F. Moore: It has been changed and everybody must negotiate in good faith. Prior to the Wik decision the only party which had to negotiate in good faith was the Government. That is where most of the problems arose. The member should ask people in the Department of Minerals and Energy who are involved in this how it works. They have no axe to grind politically. They will tell him how it does not work. The member can take their word for it.

Hon TOM HELM: I have asked. Part of what the minister says is true. There will be people on the native title side of the argument as well as on the government side of the argument who will not negotiate in good faith. The minister must understand that the problems in negotiations have been easily overcome in the Pilbara and the Kimberley. People on both sides of the argument, including the State Government, have negotiated successfully under the native title procedures. Why would the goldfields act differently, I wonder?

Hon N.F. Moore: Because they do not want to be bribed. They will not pay the sort of money that is being demanded.

Hon TOM HELM: So Robe River, BHP and Hamersley Iron do?

Hon N.F. Moore: They do not know who to negotiate with because there are multiple claims over each lease.

Hon TOM HELM: There used to be multiple claims. How many more arguments must I listen to? As the minister pointed out, since his Government has been in power things have changed. They did not change yesterday; it was a while ago. The bar for people making claims was raised by this Government. The National Native Title Tribunal's terms of reference were changed so that people's ability to negotiate was changed and they had to go through the tribunal first. Is the minister telling me that it will be changed again? Is the minister telling me that the bar will be raised again?

Hon N.F. Moore: We tried to change it; you knocked it back last year

Hon TOM HELM: No. The non-government parties are pretty strong in this place but we cannot change federal legislation - not yet anyway.

Hon N.F. Moore: You knocked back state legislation and everyone knows it. You can talk here all night; it will make no difference to how many votes you get in Kalgoorlie.

Hon TOM HELM: We work under federal legislation. The minister's party is in power and it changed the rules.

Hon N.F. Moore: That legislation allows the States to have their own legislation, which you refused to agree to, or wasn't the member here last year?

Hon TOM HELM: I was part of it I am glad to say. If the minister does not think his party's federal legislation is strong enough, perhaps he should have said so.

Hon N.F. Moore: It is a compromise.

Hon TOM HELM: So the minister does not want to compromise. That is at the heart of the issue: This Government does not want to compromise; it has no ability to comprise. It wants its way or no way. The ability for people to negotiate, and their right to negotiate, are determined by the National Native Title Tribunal. Its terms of reference were set by the coalition partners in the Federal Government. The minister cannot whinge about multiple claims and no-one wanting to negotiate, when the same set of circumstances exist in the north of the State where I come from, and people are willing to negotiate. We hear tale after tale of negotiations being successfully concluded

I want to lay those matters to rest. I want the House to understand that the minister is able to exempt people from their

obligations and allows them to not carry out their obligations to the tune of $28.8m. I want to lay the blame for inactivity in the goldfields on native title issues at the feet of the minister.

Hon J.A. Scott: The resource sector has nothing to do with it.

Hon TOM HELM: That is another argument. I want to sheet home to the minister and his department responsibility for looking after the resource sector. He should not just look after the major players but everyone. I want the minister to understand that if he went to the goldfields now and again he would see a valuable resource being buried forever because he is not doing what he can to encourage those people to whom he grants exemptions to bring on those smaller developments by smaller miners who want to work in the goldfields and make a quid. They are the people who choose to live in a caravan for weeks on end and use a metal detector to find nuggets in harmony - although probably illegally - with the major players in the mining industry. The minister should stop harking back and sheeting the blame home to the native title process.

HON MURRAY MONTGOMERY (South West) [9.28 pm]: I support the Bill, so I will not take up a great deal of the time of the House.

Hon Bob Thomas: It would be novel if a member of the Government opposed an appropriation Bill.

Hon MURRAY MONTGOMERY: It would not be the first time that a government member has not supported a government Bill. I am sure the member could go back in history and find some interesting examples.

I now refer to the Regional Forest Agreement. I wish to present the National Party's point of view and where it has come from. Over the past 14 or 15 months the National Party has done a fair amount of work on this matter and consultation has taken place with groups in the community. Those groups included shire councils, timber workers, the union movement, conservation groups, officers from the Department of Conservation and Land Management and timber companies. It does not matter how much consultation takes place, there will always be some winners and some losers; in other words, the Government is damned if it does, and damned if it does not, no matter how much consultation takes place. I am proud of the fact that the National Party was able to achieve a fair degree of balance in its policy which at least in some part shaped the Regional Forest Agreement.

Hon Bob Thomas: Is the National Party happy with the outcome?

Hon MURRAY MONTGOMERY: It would like some parts to be different but the total package has achieved a balance. There are always times when compromises must be made. However, the policy that the National Party was trying to influence has resulted in a reduction in the jarrah cut. It has been recognised that forest management must be addressed in the sense that it has been announced that the functions of CALM will be divided, with separation between forest management and the management of national parks and other administrative areas. It will reduce the conflict of interest that has been prevalent over the past 15 years since the formation of CALM in 1984. It will move in the direction of separate ministerial portfolios, and that has been spelt out in the agreement.

The agreement also provides for an independent expert group to advise the Government on the ecological sustainability of yields from the forest, and the yield that will be available for timber production. The agreement includes the areas of conservation reserves and the new conservation reserves that will be created. There will be a net increase of 150 000 hectares in the formal reserves and the Walpole Wilderness Park will be created, which I consider to be a very appropriate development for that area. That park will include some areas that have been described as the back end of good timber country. It will create an ecosystem that will illustrate the features of the southern forest area, and it will still produce timber. It is a move in the right direction to create a wilderness park that is available for tourists and others to walk through.

I also believe that the adjustment package provided in the agreement is advantageous to the timber industry because it will be able to add value to the timber and create products that the community will appreciate. I am sure that better use will be made of the timber.

I am very much aware of the efforts by the member for Collie, Dr Hilda Turnbull, to persuade the Government to purchase the property surrounding the Wellington Dam. She made sure that the Government saw it as an advantage to the timber and forest areas. Although that part will become a park, that in itself will add to the amenity of the area.

I am sure that if people read the National Party policy released some three or four months ago, they will find areas that have been included to improve the Regional Forest Agreement. Suffice to say, people would always like more but that cannot always be achieved. There must be a balance between jobs, conservation, tourism and the like. The community as a whole will accept that, although it is necessary to keep high value conservation areas in these reserves, there is some balance. My colleagues and I have debated this issue and, as members of the National Party, we stand proud of the influence we have had on the outcome of the RFA. Reviews will be held every five years throughout the period of the agreement, and certainly we support that aspect.

Last Monday I had the good fortune to launch a curriculum package for the south coast schools study site on the Kalgan River. It is located on the south coast and is one of the longer rivers, but not the longest. This package has been preceded by some other projects that have taken place. One is a walkway that follows the Kalgan River. It is intended that it be extended from the mouth of the Kalgan River at Oyster Harbour to Kendenup. The area alongside the river has been walked by a few people who have done a fair bit of work on providing suggestions about how to look after our rivers system.

Another part of the package is an oral and photographic history of the Kalgan River. Chris Rowett and Steve Pontin have walked along that river taking photographs and recording an oral history given by the people who live along it, and their work represents a large contribution to the history of the area. Part of this curriculum package involved the study site

opposite "Honeymoon Island". How that name was arrived at is a story in itself - that is not how it is named on maps - and is recorded in the book entitled *Long Pools of Silence*. The "Kalgan and Beyond" curriculum package goes beyond the history of the Kalgan River and includes themes that will encompass, and can be adapted to, places along the south coast including the Fitzgerald River biosphere, other national parks and the wetlands along the south coast to Esperance. The themes listed in the package include "We all live in a Catchment"; "Tourism"; "Art and the Environment"; "Legislation and Land Use"; "Changing agriculture"; "Water Quality"; "Weeds"; and "Biodiversity". These themes can be related to all catchment areas along the south coast.

A development process is under way which will enable schools to find a web site that will provide them with ways and means of visiting the Kalgan River via the Internet. It includes photographs and excerpts from various other materials including, as I said, the book entitled *Long Pools of Silence*. All of this is of assistance. Most of the available materials on this subject focus on the ecological problems associated with the Murray-Darling Basin. We can now bring our region into focus and assist schools within the west. I am sure the focus on this subject will now move from that area of our State to others.

The funding for this project came from the Australian Council for the Arts, Agriculture Western Australia, the Water and Rivers Commission, the Albany shire and the Oyster Harbour Catchment Group. As a result of the funding by the Australian Council for the Arts, a sculpture of the sacred kingfisher, a bird which lives along the banks of the Kalgan River, was made out of steel. It is a fairly large sculpture in the form of a shelter, standing between 10 and 12 feet high and between 16 and 20 feet across, whatever that converts to in metric terms.

About 40 or 50 people were at the launch, including students from one of the local schools. The schools certainly will gain, as will those who work for green schools, and as did - as I learnt from talking to them - the people who took part in the construction of the sculpture. Often these people go out and do a fair bit of work in the community, unheralded. It was great to see the people involved in those efforts present at the launch of this package earlier this week.

I refer to the local government elections, in particular that for the now City of Albany. It was interesting to observe that election because the former local government authority has been under the administration of commissioners for the past 18 months. The councils covering the former shire and the town of Albany have been amalgamated into one authority. Of the 14 members of council - I am not about to name them all! - some were on the former council and some are new faces. They were sworn in by the Minister for Local Government, the member for Warren-Blackwood, with the two ministers from the Albany and Stirling electorates and Hon Bob Thomas also in attendance. The former Mayor of the Town of Albany was Annette Knight, and this time around Alison Goode was elected as mayor.

A balance has been put into the City of Albany, given that the mayor polled about 65 per cent of the votes and all the wards achieving a vote of above 50 per cent. It all goes well for those people who are interested in local government, especially as voting in local government elections is voluntary. I wish them well and I trust that over the next 12 months, two years, or through the term of the longer serving councillors of four years, they will move in a positive way to see that Albany moves forward in the way that it has every potential to do. I support the Bill.

HON HELEN HODGSON (North Metropolitan) [9.50 pm]: I will make a few comments on the occasion of this appropriation Bill on a few issues in our justice system. It is very relevant because looking at the appropriation Bill, which is for the year ended 30 June 1997, the Justice line for expenditure has one of the highest figures in that Bill. It shows some measure of the problems that we are facing within that system. When I started to put my notes together, I started by doing a search of *Hansard*. A quick search revealed how significant this issue has been in this Chamber over the past 12 to 18 months. I found something in the order of 43 questions, two urgency debates and at least five or six papers tabled that have had some reference to some aspect of the justice system. We all recognise that it is one of the most serious issues facing this State, especially when it comes to issues of financial management. We must recognise the implications that our prison system has on the budget of this State.

The first thing I will refer to is the increase in the number of prisoners over the past few years. I found in the questions that I searched some useful comparisons. I found that in March 1999 a question was put to the Minister for Justice about the number of people imprisoned as at 30 November 1998. The response was that the muster as at 26 November 1998 was 2 618 prisoners. A question in *Hansard* of 28 February 1998 indicated that at that date the muster was 2 250 prisoners. That means essentially that in the nine months from 28 February to 26 November last year, the prison population increased by some 400 prisoners. Four hundred prisoners out of a bit more than 2 000 is one in six. That is an enormous increase to have happened in our prison system. However, that is not the end of it, because as at 18 March 1999 the numbers have continued to increase. There were 2 818, a further 200 prisoners, in the period 30 November 1998 to 18 March 1999. I refer to the answer to a question on notice on 22 April 1999 in which the question asked for estimates of the prison population over the next five years. The estimates show that in the year 2000, we are expecting somewhere between 2 715 and 2 986, and that continues to increase until the 2005 year when we are expecting between 3 085 and 3 393 prisoners in the system.

It is clear that we are facing a huge crisis of our prison population. Everybody here is aware of the significance of that issue because we have addressed it so many times in this place. However, the question is: What are we doing about it? Some of the reports that have been tabled over the past year address the conditions of our prisons, but most of them detail a catalogue of problems. For example, the Auditor General's report of October 1997 on bail and prisoners in remand makes some serious criticisms of the situation of prisoners who are in remand in this State. To put this into context, this report was tabled in October 1997, yet last week we had tabled the Smith report, the report of the inquiry into the incident at Casuarina Prison. One of the issues it raises as a factor in the events that happened on Christmas eve is the large number of remand prisoners and the fact that they were mixed in with the general population because we do not have the facilities to deal with remand prisoners as separately as they should be dealt with. What happened between October 1997 and 25 December 1998?

It seems as if that issue, which has been raised and has been brought to the attention of not only the Ministry of Justice but also of this Parliament, had not been addressed in that time, with devastating consequences.

We have other reports. We have an assessment of the existing prison infrastructure and the projection of future needs. That was tabled in June 1998. It is a description of some of the problems in our prison system. It looks at facilities that fail to meet the United Nations' recommended minimum standards and, in some cases, fail to meet legal minimum standard under Australian law; the mismanaged capital programs, with massive overruns in time and cost when projects were approved; overcrowded accommodation; inadequate programs for prisoners leading to boredom, frustration and anger; and inadequate funding.

We have the Ombudsman's annual report from last year. Most people are aware that the Ombudsman has been conducting an ongoing inquiry into the prison system. His report of last year contained a few comments although the inquiry has not been finalised. He said -

> . . . in my opinion, the increased number of deaths of prison inmates in this State in recent times has been a reflection of a system that has not coped with the demands placed upon it.
>
> In my opinion there can be no doubt that the adult prison system in this State has become stretched to almost breaking point in most aspects of its operations. There have been many and varied reasons for this, some of which are largely beyond the control of the Ministry of Justice and its personnel and some of which reflect inadequate planning and management of the system in the past.

What have people done about it? The Christmas Day riot has brought to a head many of the symptoms which have been simmering in the system and brought to our attention time and again by people who have had the task of investigating aspects of our prison system. It was brought to our attention and we have not been able to act upon it in time. This is an indictment of the way in which the prison system is operating.

Debate adjourned, pursuant to standing orders.

House adjourned at 10.00 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT DEPARTMENTS AND AGENCIES - LEVEL ONE EMPLOYEES

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

How many Level 1 Public Servants have been employed on a permanent full time basis in -

(a) 1993;
(b) 1994;
(c) 1995;
(d) 1996; and
(e) 1997?

Hon MAX EVANS replied:

(a) 55
(b) 136
(c) 145
(d) 121
(e) 106

The information above only reflects the number of level 1 officers recruited through the Entry Level Recruitment database administered by the Ministry of the Premier and Cabinet, Public Sector Management Division and relates to the metropolitan area. Government agencies may recruit permanent level 1 officers directly and are under no obligation to use the Entry Level Recruitment database. Government agencies in regional areas advertise locally for entry level employees and the above figures do not reflect permanent appointment in regional Western Australia. The above figures therefore understate the amount of permanent entry level recruitment across the public sector. No central records are maintained for overall numbers of permanent level 1 officers recruited across the public sector and the Premier is not prepared to direct resources to gather such information.

WESTERN POWER, MR WARNER'S FEE

713. Hon KEN TRAVERS to the Leader of the House representing the Premier:

In regards to the fee earned by Mr Ian Warner as a director of the Western Power Corporation -

(1) Can the Premier explain the discrepancy between his answer to question 175 of August 12, 1998 where he stated that Mr Warner's annual fee was $34 680, and the Boards and Committee Register which states his fee as $108 per full day and $73 per half day?

(2) How many full and half days did Mr Warner work for Western Power Corporation in the 1997/98 financial year?

(3) How much was Mr Warner or Jackson McDonald paid for his directorship on the Western Power Corporation in the 1997/98 financial year?

Hon N.F. MOORE replied:

(1) The information provided in response to question 175 was correct. Technical difficulties associated with the Year 2000 upgrade prevented the updating of some of the information on the Register of Boards and Committees, as was advised when the register was tabled. In addition, the Register lists fees applicable at the time of the Cabinet decision. Fees payable to Western Power Directors have been raised to $34,680 since Cabinet approved the appointment.

(2) Directors of corporatised bodies are not remunerated according to the number of days worked. Directors are involved with more than the formal meetings of the Board. The Board is the governing body of the Corporation. Legislation requires directors to perform the functions, determine the policies and control the affairs of the Corporation. Time sheets are not kept for directors. In Mr Warner's case he is also chairperson of the Corporation's Audit Committee.

(3) $33,050 was paid to Jackson McDonald.

WESTERN POWER, MR RICHARD LEWIS' FEE

714. Hon KEN TRAVERS to the Leader of the House representing the Premier:

In regards to the fee earned by Mr Richard Lewis as a director of the Western Power Corporation -

(1) Can the Premier explain the discrepancy between his answer to question 174 of August 12, 1998 where he stated that Mr Lewis' annual fee was $34 680, and the Boards and Committee Register which states his fee as $30 000 per annum?

(2) How much has Mr Lewis been paid for his Western Power Corporation directorship since appointment on July 20, 1998?

Hon N.F. MOORE replied:

(1) The information provided in response to question 174 was correct. Technical difficulties associated with the Year 2000 upgrade prevented the updating of some of the information on the Register of Boards and Committees, as was advised when the register was tabled. In addition, the Register lists fees payable at the time of the Cabinet appointment. Fees payable to Western Power Directors have been raised to $34,680 since Cabinet approved the appointment.

(2) From 20 July 1998 to December 1998 Mr Lewis was paid $15,512.

PUBLIC SERVICE, LEAVE LIABILITY

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

(1) What was the leave liability for public sector employees as at June 30, 1998?

(2) What is the leave liability for public sector employees to date for the 1998/99 financial year?

Hon MAX EVANS replied:

(1) The leave liability for public sector employees as at June 30, 1998 was $964 million.

(2) The leave liability for public sector employees as at December 31, 1998 was $954 million

PUBLIC SERVICE, TRAINEESHIPS

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

I refer to the advertisement in the September 1998 issue of *Intersector* for Traineeships in the Public Sector and ask -

(1) How many applications were received for these traineeships?

(2) How many of the applicants were selected to sit the traineeship exam?

(3) Of those who sat the exam, how many passed the exam?

(4) Of those who passed the exam, how many have received traineeships and in which Government department?

Hon N.F. MOORE replied:

(1) 204.

(2) 204.

(3) 50.

(4) 16 to date.

Ministry of Justice	1
Department of Training	2
Director of Public Prosecutions	1
Ministry of Fair Trading	3
Curriculum Council	1
State Revenue	1
Minerals and Energy	2
Fire and Emergency Services	2
Public Sector Standards Commission	1
Insurance Commission of WA	2

EDUCATION, CULTURALLY SENSITIVE GRIEVANCE PROCEDURES POLICY

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

I refer to the answer to question on notice 122 dated September 8, 1998 and ask -

(1) When was the Culturally Sensitive Grievance Procedures policy launched?

(2) To whom has the document been distributed?

(3) What was the cost to produce and distribute this policy document?

(4) What languages has this document been produced in, given that it deals with racism and racial discrimination?

(5) Will the Minister for Education table a copy of the policy document?

Hon N.F. MOORE replied:

(1) The Anti-Racism Policy and Culturally Sensitive Grievance Procedures were launched as a package at Girrawheen Senior High School by the Minister for Education on 5 November 1998.

(2) The package has been distributed to all Education Department of Western Australia schools and worksites and to the Chief Executive Officers of a range of Government agencies.

(3) $11 396.

(4) The Anti-Racism Policy is aimed at management level staff and has been produced in English only at this stage. However, the Education Department is currently investigating the publication of related materials in other languages.

(5) Yes. See tabled paper Anti Racism Policy and Guidelines. [See paper No 1021.]

GOVERNMENT DEPARTMENTS AND AGENCIES, 1999 CALENDAR

995. Hon LJILJANNA RAVLICH to the Leader of the House representing the Government:

(1) Have any Government departments or agencies produced a 1999 calendar?

(2) If yes, what was the cost of -

(a) artwork;
(b) publication;
(c) distribution; and
(d) writing?

(3) What was the total cost of the calendar?

(4) What work was completed by contractors, and what was the value of that work?

(5) How many calendars were produced?

(6) If a 1998 calendar was produced, what were the equivalent costs for that year, and how many were produced?

Hon N.F. MOORE replied:

(1)-(6) I am advised that there is no central record of calendars produced by Government departments and agencies. Departments and agencies list their publications in their annual reports.

I am not prepared for agencies to devote the considerable resources necessary to prepare a retrospective report for 1998 and a current report for 1999, and, in particular, to provide the level of detail requested. If the Member has a question in relation to a specific Government department or agency I will endeavour to provide the information.

SCHOOLS, EATON

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

(1) Has the Education Department authorised or instructed CAMS to commence the tendering process for the proposed Eaton Schools?

(2) When was that instruction given?

(3) Has the Minister for Education received the final report of the Bunbury LAEP process?

(4) If yes, did the LAEP recommence any particular structure for Eaton Primary and Eaton Secondary Schools?

(5) If yes, what were the reasons for pre-empting the outcomes of the LAEP process?

Hon N.F. MOORE replied:

(1) (a) The Education Department has given approval to arrange the appointment of an architectural consultant to prepare documentation for the establishment of the East Eaton Primary School by Term 3, 2000.

(b) A feasibility study for the Eaton High School is currently being prepared and should be available by June 1999.

(2) The instruction for East Eaton Primary School was given on 30 March 1999.

(3) No.

(4)-(5) Not applicable.

REGIONAL HEALTH SERVICES, DISTRICT COUNCILS

1001. Hon KIM CHANCE to the Minister for Finance representing the Minister for Public Sector Management:

(1) Are district councils of regional health services required to comply with the General Principles of Human Resource Management as set out in Sections 8(1)(a)(b) and (c) of the *Public Sector Management Act 1994*?

(2) What action would normally be taken in the event that a breach of the Act by a district council had been identified by the Public Sector Standards Commission and that no action had been taken by the district council to implement the Commission's recommendations?

Hon MAX EVANS replied:

The Commissioner for Public Sector Standards has advised me as follows:

(1) Yes.

(2) The action normally taken is to seek information from the agency concerned as to why they have not acted on the findings and recommendations. If the Commissioner is not satisfied with their explanation and the action taken, he would report to the Minister concerned, and if he considers it warranted, provide a report to Parliament at that time. He would also include it in his Annual Compliance Report to Parliament.

GOLD CORPORATION, MR DONALD MACKAY-COGHILL

1014. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

(1) Is Mr Donald Mackay-Coghill still Chief Executive of the Gold Corporation?

(2) If not, on what date did he resign and who replaced him?

(3) On what date does Mr Mackay-Coghill's contract expire?

Hon N.F. MOORE replied:

(1) Yes.

(2) Not applicable.

(3) Mr Mackay-Coghill's contract is subject to twelve months prior written notice by the company of its intention to terminate his contract.

GOVERNMENT DEPARTMENTS AND AGENCIES, LONG SERVICE LEAVE ENTITLEMENTS

1019. Hon LJILJANNA RAVLICH to the Leader of the House representing the Government:

For all Government departments and agencies under all Ministers' control -

(1) What are the requirements guiding the pay-out of accumulated long-service leave entitlements to public servants?

(2) Are all public servants entitled to receive a pay-out of long-service leave entitlements?

(3) If not, why not?

(4) How much long-service leave entitlement has been paid out to public servants in the following financial years -

(a) 1996/97; and
(b) 1997/98?

(5) How much long-service leave entitlement has been paid out to public servants so far in 1998/99?

Hon N.F. MOORE replied:

(1)-(5) The information is not readily available as there is no centralized record of leave entitlements and requirements. However, CEOs require approval of the employing authority and the entitlements for other public service employees are generally set out in Workplace Agreements and Enterprise Bargaining Agreements. Provision of this information would require considerable research which would divert staff away from their normal duties and I am not prepared to allocate the State's resources to provide a response. If the Member has a specific enquiry I will endeavour to provide a reply.

GOVERNMENT DEPARTMENTS AND AGENCIES, ANNUAL LEAVE ENTITLEMENTS

1020. Hon LJILJANNA RAVLICH to the Leader of the House representing the Government:

For all Government departments and agencies under all Ministers' control -

(1) What are the requirements guiding the pay-out of accumulated annual leave entitlements to public servants?

(2) Are all public servants entitled to receive a pay-out of annual leave entitlements?

(3) If not, why not?

(4) How much annual leave entitlement has been paid out to public servants in the following financial years -

(a) 1996/97; and
(b) 1997/98?

(5) How much annual leave entitlement has been paid out to public servants so far in 1998/99?

Hon N.F. MOORE replied:

(1)-(5) The information is not readily available as there is no centralized record of leave entitlements and requirements. However, CEOs require approval of the employing authority and the entitlements for other public service employees are generally set out in Workplace Agreements and Enterprise Bargaining Agreements. Provision of this information would require considerable research which would divert staff away from their normal duties and

I am not prepared to allocate the State's resources to provide a response. If the Member has a specific enquiry I will endeavour to provide a reply.

GOVERNMENT DEPARTMENTS AND AGENCIES, CEO'S LONG SERVICE LEAVE ENTITLEMENTS

1021. Hon LJILJANNA RAVLICH to the Leader of the House representing the Government:

For all government departments and agencies under all Ministers' control -

(1) What are the requirements guiding the pay-out of accumulated long-service leave entitlements to Chief Executive Officers (CEOs)?

(2) Are all CEOs entitled to receive a pay-out of long-service leave entitlements?

(3) If not, why not?

(4) How much long-service leave entitlement has been paid out to CEOs in the following financial years -

(a) 1996/97; and
(b) 1997/98?

(5) How much long-service leave entitlement has been paid out to CEOs so far in 1998/99?

Hon N.F. MOORE replied:

(1)-(3) The requirements guiding the pay out of accumulated long service leave entitlements to Chief Executive Officers (CEOs) are that a formal request for payment in lieu of long service leave is made by the CEO to the Minister for Public Sector Management, that an entitlement has been accrued, and that approval is given by the Minister (as the employing authority).

(4)-(5) Salary matters relating to CEOs are maintained by the respective agencies directly.

GOVERNMENT DEPARTMENTS AND AGENCIES, CEO'S ANNUAL LEAVE ENTITLEMENTS

1022. Hon LJILJANNA RAVLICH to the Leader of the House representing the Government:

For all Government departments and agencies under all Ministers' control -

(1) What are the requirements guiding the pay-out of accumulated annual leave entitlements to Chief Executive Officers (CEOs)?

(2) Are all CEOs entitled to receive a pay-out of annual leave entitlements?

(3) If not, why not?

(4) How much annual leave entitlement has been paid out to CEOs in the following financial years -

(a) 1996/97; and
(b) 1997/98?

(5) How much annual leave entitlement has been paid out to CEOs so far in 1998/99?

Hon N.F. MOORE replied:

(1)-(3) The requirements guiding the pay out of accumulated annual leave entitlements to Chief Executive Officers (CEOs) are that a formal request for payment in lieu of annual leave is made by the CEO to the Minister for Public Sector Management, that an entitlement has been accrued, and that approval is given by the Minister (as the employing authority).

(4)-(5) Salary matters relating to CEOs are maintained by the respective agencies directly.

GOVERNMENT CONTRACTS, BANKWEST BUILDING

1164. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

Further to the answer given to question on notice 2054 of 1995 asked in the Legislative Assembly in relation to the Department of Premier and Cabinet's contract with the firm Moltoni Corporation Pty Ltd worth approximately $5.1m for asbestos removal and demolition of BankWest building, can the Premier advise -

(1) Was the contracting project risk management process applied to this contract as per the requirements of Contract and Management Services' risk management policy?

(2) What was the risk rating of this project?

(3) Will the Premier table the Risk Management Plan for the Contract Development Phase of this contract?

(4) Was any risk monitoring carried out?

(5) If so will the Premier table the outcomes?

(6) Was the performance of this contract evaluated?

(7) Will the Premier table the evaluation?

Hon N.F. MOORE replied:

I am advised that :

(1) No, as formal risk management as a policy was not in place at the commencement of these projects.

(2)-(3) Not applicable.

(4) Yes. Risk monitoring is applied through normal contract processes.

(5) Not applicable.

(6) Ongoing monitoring of the contract is applied through contract administration and site inspections.

(7) Yes, as requested relating to specific issues.

STATE FINANCE, BORROWINGS INCREASE

1198. Hon TOM STEPHENS to the Leader of the House representing the Premier:

I refer to the increase in general Government net borrowings from the budgeted $37m to $230m as shown in the Mid-year review document and ask-

(1) Why has the projected level of borrowings increased by $193m?

(2) What will the additional borrowings be used for?

Hon N.F. MOORE replied:

(1)-(2) The projected level of net borrowings has increased by $193 million for the following reasons:

$146 million to fund the increased allocations to Health, Education and Justice announced by the Premier on 26 February 1999;

$30 million to fund an increase in the roads program being undertaken by Main Roads; and

a net $17 million from a mix of higher borrowings and lower capital repayments across other general government agencies with borrowing powers.

GOVERNMENT CONTRACTS, REIMBURSEMENT OF UNSUCCESSFUL CONTRACTORS

1325. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

For all Government departments and agencies under the Minister for Education's control -

(1) How many contracts have reimbursed unsuccessful contractors in -

(a) 1995/96;
(b) 1996/97;
(c) 1997/98; and
(d) since July 1, 1998?

(2) For each contract which reimbursed unsuccessful contractors, can the Minister state -

(a) the contract number;
(b) the date the contract was awarded;
(c) the project the contract was awarded for;
(d) the successful tenderer;
(e) the unsuccessful tenderer/s;
(f) the original cost of the contract;
(g) the actual final cost of the contract;
(h) the amounts paid to unsuccessful tenderer/s; and
(i) the names of the unsuccessful tenderer/s?

Hon N.F. MOORE replied:

Education Department of Western Australia

(1) (a)-(d) Nil.

(2) (a)-(i) Not applicable.

Department of Education Services

(1) (a)-(d) Nil.

(2) (a)-(i) Not applicable.

Curriculum Council

(1) (a)-(d) Nil.

(2) (a)-(i) Not applicable.

GOVERNMENT MEDIA OFFICE, GUIDELINES FOR DISTRIBUTION OF INFORMATION

1378. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) Which private consultants are provided with media summaries and transcripts from the Government Media Office?

(2) Is the distribution of this material to private consultants in accordance with the Government Media Office guidelines?

Hon N.F. MOORE replied:

(1) The Government Media Office does not provide any private consultants with media summaries or transcripts.

(2) Not applicable.

MINISTRY OF THE PREMIER AND CABINET, MR JOHN CLARK

1393. Hon HELEN HODGSON to the Leader of the House representing the Premier:

(1) What is the end date of the consultancy between Mr John Clark and the Department of Premier and Cabinet?

(2) Is there an option for this period to be extended?

(3) Will the Premier table the contract between the department and Mr Clark?

(4) If not, why not?

(5) Is there a provision in the contract applying to situations of conflict of interest that may arise due to Mr Clark's consultancy work with companies in the private sector?

(6) If so, what are the terms of that clause?

(7) Is there a confidentiality clause included in the contract?

(8) If so, what are the terms of that clause?

Hon N.F. MOORE replied:

(1) 1 July 1999.

(2) Yes.

(3) No.

(4) Since 1994, the Government has published six-monthly reports on consultants engaged by the Government. These reports provide comprehensive details of the consultancies undertaken in each Government agency, including the amount paid to each consultancy. Full details of Mr Clarke's consultancy will be provided in the relevant report on consultants engaged by the Government.

(5)-(6) Yes. The Consultant must immediately disclose to the Director General any pecuniary interest or any conflict of interest, pecuniary or otherwise, that he may have in any matter being dealt with as part of the services of this consultancy. Action to resolve any possible or actual conflict of interest shall be as agreed between the Director General and the Consultant. If the issue cannot be resolved to their mutual satisfaction the consultancy may be immediately terminated.

(7)-(8) No.

GANTHEAUME POINT DEVELOPMENT

1468. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Lands:

(1) Can the Minister for Lands advise on the costs associated with the distribution of a flyer entitled 'Gantheaume Point Fact Sheet' inserted in the February 24, 1999 edition of the *Broome Advertiser*?

(2) Is the Minister aware that a Special Broome Shire Electors meeting attended by 450 residents on November 25, 1998 passed a series of motions expressing concern about the way expressions of interest have been called for a development of Gantheaume Point?

(3) Is the Minister aware that a petition circulated in Broome recently collected the signatures of over 1 000 people concerned about the environmental impact of a development at Gantheaume Point?

(4) Can the Minister advise what will be the specific features of any Government program aimed at ensuring community participation remains a major part in the formulation of plans for Gantheaume Point?

Hon MAX EVANS replied:

(1) Preparation, production and distribution cost was $5,787.35.

(2)-(3) Yes.

(4) Community consultation will form an integral part of the agreement with any developer proponent.

DEPARTMENT OF LAND ADMINISTRATION, CAVEATS ON MORTGAGED PROPERTIES

1520. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Lands:

(1) Is it normal practice for the Department of Lands to lift caveats on properties at the request of persons holding mortgages on those properties even though the mortgages are of very low value, for example $20?

(2) Does the department ensure that the person placing the caveat has been informed before the caveat has been lifted?

(3) Was the caveat on the property at 33 Nicholson Road (Folio 1856 152) removed by a person holding a $20 mortgage over the $400 000 property?

(4) Did the person placing the caveat on that property receive notice that the caveat was to be lifted by the $20 mortgage holder?

(5) Which officer of DOLA sent or gave that notice?

Hon MAX EVANS replied:

(1) DOLA's practice is governed by section 138 of the Transfer of Land Act (TLA). Under this legislation a proprietor of land, dealing in the land by way of instrument, may request that notice be sent by the Registrar of Titles to the Caveator to attend before the Supreme Court or a Judge to show cause why his caveat should not be removed. Unless the Registrar receives an order from the Court within 14 days he is obligated to lapse the caveat, even though the mortgage is of a very low value.

(2) Yes.

(3) No. The caveat was removed by the Registrar of Titles after completing the steps required by Sec 138.

(4) Yes. Notice was sent and is therefore deemed to be received under Sec 240 of the TLA.

(5) Registrar of Titles.

QUESTIONS WITHOUT NOTICE

BUCKERIDGE GROUP OF COMPANIES

1128. Hon TOM STEPHENS to the Minister for Transport:

I refer to reports that the Buckeridge Group of Companies has been asked to provide equity to the consortium involved in the proposed private port at Naval Base. In view of the links between BGC and the coalition Government, will the minister explain the nature of the relationship between BGC and the consortium and when did he first become aware of this relationship?

Hon M.J. CRIDDLE replied:

In reaching the preferred tender status of this group, we went through a series of requirements with Arthur Andersen as the tender manager. We had a probity officer and the whole process was well and truly above board.

Hon Ljiljanna Ravlich: As always!

Hon M.J. CRIDDLE: Is the member questioning the ability of probity officers in this day and age?

Hon N.F. Moore: She is and always does.

Hon M.J. CRIDDLE: These processes were put in place to ensure that a reasonable and fair decision was made. As to any link with these groups, it is fair and reasonable that anyone in Western Australia or anyone else who might want to become a preferred tenderer has the opportunity to do so. Whether it is BGC or anyone else, it does not matter provided the process is fair and reasonable and above board.

GOODS AND SERVICES TAX, CASINO GAMBLERS

1129. Hon TOM STEPHENS to the Minister for Finance:

(1) Has the minister identified a need for high-roller casino gamblers to be exempted from the impact of a goods and services tax?

(2) Does the State Government share the view of Victorian Premier Kennett that concessions will be needed to ensure that Australian casinos are internationally competitive?

(3) Does the State Government intend to offer state-based concessions in the event that the proposed commonwealth concessions are rejected by the Senate? If so, what concessions?

The PRESIDENT: Part (1) of the question can be only an introduction because it is not within the jurisdiction of the state Minister for Finance, but the other parts are. I presume that was an introduction.

Hon MAX EVANS replied:

(1)-(3) The member is asking for an opinion.

Hon Tom Stephens: I asked whether you share the view.

Hon MAX EVANS: That is an opinion and an opinion is worth only what someone pays for it. If it is free, it is no good.

The States will make an adjustment to their rate of taxes in respect of the GST. If we have a tax rate of 15 per cent, there will be no move to drop it. If the GST is 10 per cent, we will get 5 per cent under the present system. I know what Victoria is doing. We have to work that out with respect to the junket players. The rebates to the high rollers are very large. Some people are gambling $5m and the turnover is $100m a weekend. They get a rebate and the person bringing them here has high costs, which are rebated. The total profit from gambling is less these rebates, which is a net benefit. They are talking about the GST being applied to that amount. That is the way the GST is calculated on lotteries. It is the total turnover less the cost of administration and so on. That is what we are trying to do. I do not have a statement to make.

IRELAND, L.L. AND D.E. AND EASTERDAY, C.E., PETITION

1130. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the Attorney General's answers to questions without notice 872 on 9 March 1999 and 1075 on 21 April 1999 dealing with a petition concerning Clark Easterday, Dean Ireland and Len Ireland.

(1) Has the Attorney General drawn the matters raised to the attention of the Solicitor General?

(2) When did he do so?

(3) What priority is he giving them and is the delay to date due to insufficient resources on the part of the Solicitor General to accommodate the priorities of the Government and his responsibilities to the administration of justice?

Hon PETER FOSS replied:

(1)-(3) I have drawn the matters to the attention of the Solicitor General. In fact, I have drawn to his attention generally my concern to ensure that I get advice in a timely fashion. As far as the remainder of the matters are concerned, as the member knows, the Solicitor General is an independent officer. He has the equivalent status of a Supreme Court justice and I cannot call him to account as the member requests. Once the Parliament makes that decision, it makes him independent and we have to wear it.

GREENHOUSE GAS EMISSION TARGETS

1131. Hon J.A. SCOTT to the Leader of the House representing the Premier:

Some notice of this question has been given.

(1) Is the Western Australian Government participating in a national program of greenhouse emission targets in line with Australia's international obligations? If not, why not?

(2) Has the Government set targets for its own agencies?

(3) Is the Government assisting and encouraging private industry in setting and achieving greenhouse gas targets? If so, how?

(4) What is the target for total state emissions?

(5) How are greenhouse emissions being monitored or estimated and do the results show we have been successful in achieving targets?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The Western Australian Greenhouse Council, which reports to the Minister for the Environment is currently considering implementation of the National Greenhouse Strategy in Western Australia. This is an input to the State Government's involvement in a national implementation strategy.

(2) No.

(3)-(5) There are no targets established in Australia on a state basis, industry sector basis or individual project basis which are linked directly to meeting Australia's international obligations. Targets for greenhouse gas emissions will be relevant from 2008 if the Kyoto protocol comes into force through international ratification. The State is continuing to work with the Federal Government with regard to reducing greenhouse gas emissions in Australia. Annual greenhouse gas inventories are compiled and published by the Commonwealth Government.

MINISTRY OF JUSTICE, INFORMATION SERVICE DIRECTORATE

1132. Hon HELEN HODGSON to the Minister for Justice:

Some notice of this question has been given.

(1) Has the Ministry of Justice entered into an agreement to outsource services currently provided by the Information Service Directorate either wholly or in part?

(2) If so -

(a) with whom is the agreement;

(b) when does the agreement take effect;

(c) what services are to be provided under the agreement;

(d) what employment arrangements have been made for the permanent staff currently employed in the Information Services Directorate;

(e) what employment arrangements have been made for the casual staff currently employed in the Information Services Directorate; and

(f) will the minister table the agreement?

Hon PETER FOSS replied:

I thank the member for some notice of this question, although the question provided referred to the Minister for Justice not the ministry. So the answer is no. However, in that context I have the following answer -

(1) The ministry is negotiating with a preferred supplier.

(2) (a) the preferred supplier is GE Capital IT Solutions, which is the supplier of the current government BDMW outsourcing contract;

(b) the current target contract start date is 17 May 1999;

(c) IT infrastructure network and desktop operations;

(d) all permanent staff employed in the scope of the outsourcing activities have been given offers of permanent employment by GE Capital IT Solutions;

(e) some contract staff employed in the scope of the outsourcing activities have been made offers by GE Capital IT Solutions; the remaining contract staff will work to the completion of their contract;

(f) yes, once an agreement has been reached.

LAND, WELLINGTON AND HARVEY DAM SITES

1133. Hon MURIEL PATTERSON to the minister representing the Minister for Water Resources:

Some notice of this question has been given. What is the current position of the State Government's attempt to secure private land around the Wellington and Harvey dam sites?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Government continues to look at opportunities to protect its water catchments by the acquisition of privately held lands in the catchment areas, should they be made available to the market. This was reflected in the recent successful purchase of a large tract of land around the Wellington Dam water body. The Government will, however, minimise the impact to existing owners when new dams, such as the Harvey Dam, are required. The Water Corporation acquires only those portions that will be directly impacted by the dam and the flooded area. The corporation has acquired much of the land necessary for the Harvey Dam and is holding discussions with landowners for the remaining requirements.

ORGAN DONATIONS

1134. Hon J.A. COWDELL to the minister representing the Minister for Health:

(1) What was the refusal rate for organ donations in Western Australia in 1996, 1997 and 1998 because of the objection of relatives in the case of, firstly, registered donors, and, secondly, non-registered donors?

(2) How many organs were denied to potential recipients by relatives in each of the abovementioned years?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Data regarding refusal rates for organ donations is not necessarily accurate because not all cases are referred to the donor coordinators at Royal Perth and Sir Charles Gairdner Hospitals. For registered donors, the number of reported refusals for organ donation in Western Australia for 1996 is not available, and for 1997 and 1998 the figure is zero. For non-registered donors, the figure for 1996 is not available. In 1997 the figure was 11, and in

1998 it was four. In 1998, 13 organ and 62 tissue donations in Western Australia substantially improved the quality of life for more than 400 people.

(2) No organs were denied to potential recipients because organs are offered only to compatible recipients once consent has been given for donation.

COMMISSIONER FOR PUBLIC SECTOR STANDARDS, REPORT ON AGRICULTURE WA

1135. Hon LJILJANNA RAVLICH to the minister representing the Minister for Public Sector Management:

(1) Why did the Minister for Public Sector Management refer the report of the Commissioner for Public Sector Standards on the inquiry into Agriculture Western Australia to the Director General of the Ministry of the Premier and Cabinet, given the adverse finding against the ministry in the report?

(2) Why does this not constitute a conflict of interest on the part of the director general?

(3) Does the Minister for Public Sector Management have full confidence in the Commissioner for Public Sector Standards, given his dismissal of the findings of the commissioner's report?

(4) Given that the Minister for Public Sector Management indicated the report tabled on 9 March 1999 was only an interim report, when will the final report of the Commissioner for Public Sector Standards be tabled?

(5) Does the Minister for Public Sector Management propose to have all future independent reports of the Commissioner for Public Sector Standards scrutinised and a determination made by his director general, as in this case, or will that apply to only those relating to his departments?

Hon MAX EVANS replied:

(1) The director general of the Ministry of the Premier and Cabinet, on the minister's behalf, initiated appropriate action as recommended by the Commissioner for Public Sector Standards in his report on Agriculture Western Australia. The director general is responsible for employment arrangements relating to ministerial officers. Further, the director general provides advice to the minister in relation to his functions as the Minister for Public Sector Management.

(2) The approach adopted was appropriate given the overall responsibilities of the director general.

(3) Yes. In his report the commissioner suggested that further consideration should be given to possible action under the disciplinary provisions of the Public Sector Management Act. This has been undertaken, and the conclusion reached that no further action should be taken.

Hon Ljiljanna Ravlich: It is a disgrace.

Hon N.F. Moore: You should have a look at the 10 years when your party was in office.

The PRESIDENT: Order! If the answer is not required, I suggest that the minister stop now. If members continue to interject, it means to me that they are not interested in hearing the answer. The next member on my list who is scheduled to ask a question is Hon John Halden.

Hon MAX EVANS: Mr President, I have two small parts remaining in this answer.

The PRESIDENT: Order! If members continue to interject, I will not allow the answers to be given. If the minister wishes to complete the answer, he should do so.

Hon MAX EVANS: To continue -

(4) The Commissioner for Public Sector Standards has indicated that the report tabled on 9 March 1999 is his final report.

(5) The Commissioner for Public Sector Standards has discretion to report to Parliament and to the responsible minister at any time he considers appropriate. When a report of the commissioner is made available to the minister, he will arrange for it to be examined if he considers it to be appropriate.

WOOROLOO PRISON SOUTH

1136. Hon JOHN HALDEN to the Minister for Justice:

The minister announced by press release dated 21 April 1999 that construction of the new Wooroloo Prison South would commence virtually immediately.

(1) What work is currently being undertaken on site?

(2) Who is financing this work currently?

(3) Has a contract been signed regarding who will finance the construction of the prison?

(4) If not, why not and when will the matter be resolved?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Design documentation and approval processes are well advanced. The builder is currently mobilising equipment with a view to establishing a presence on site during the week commencing Monday, 10 May 1999.

(2) The consortia are financing the construction.

(3) No.

(4) The principles of agreement document signed on 19 April provides for a three-month period for the resolution of the various financing options. Negotiations are continuing to finalise this issue. The passage of the legislation will also have some effect.

ABROLHOS ISLANDS, AIRSTRIPS

1137. Hon GIZ WATSON to the minister representing the Minister for Fisheries:

I refer to the upgrading of the airstrips on the Abrolhos Islands carried out between July and October 1997.

(1) How much did this upgrade cost?

(2) From where did the funds come to carry out the upgrade?

(3) Who authorised this expenditure?

(4) Who carried out the work?

(5) Was the contract for the work put out to tender?

(6) If so, when and will the Minister for Fisheries table evidence of that tendering process?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The Minister for Fisheries has advised that the information sought by the member will take some time to research and requests that the question be placed on notice. I have spoken to the minister about this matter. Apparently some difficulty has been experienced relating to the questions asked by the member. If she puts this question on notice, I will get the information to her.

HOUSEBOATS ON SWAN RIVER

1138. Hon RAY HALLIGAN to the minister representing the Minister for Water Resources:

(1) What is the status of the move to trial houseboats on the Swan River?

(2) What departments are involved in monitoring the trial, and how many boats are involved?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The Swan River Trust released a policy on 20 March 1999 calling for interested parties to submit a proposal to operate the trial of commercial houseboats on the Swan River. The closing date for submissions is 14 June 1999.

(2) The Swan River Trust is the primary agency involved in monitoring the trial. The trust will liaise with relevant local government authorities and the Department of Transport in this regard. No more than five commercial houseboats will be involved in the trial.

CITY OF COCKBURN, COMMISSIONERS

1139. Hon TOM STEPHENS to the minister representing the Minister for Local Government:

I refer to the appointment by the minister of three commissioners to the Cockburn City Council.

(1) What is each commissioner being paid each month?

(2) What is the total expenditure for all three commissioners for each month?

(3) Where is the funding coming from?

(4) What is the expected duration of the commissioners' tenures?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The chairperson receives $4 500 per calendar month plus expenses of office, and the commissioners receive $3 250 per calendar month plus expenses of office.

(2) Given that the commissioners have been appointed only recently, it is not possible to answer this question at this stage. In any event, such information should be sought from the Cockburn City Council.

(3) In accordance with the provisions of the Local Government Act, such payments are made from the funds of the council.

(4) In the first instance, the duration is expected to be until the report of the inquiry is finalised, and then depending upon the recommendations of the inquiry.

KINGS PARK BOARD, STAFF PAY RISES

1140. Hon KEN TRAVERS to the minister representing the Minister for the Environment:

(1) Can the minister confirm that members of staff of the Kings Park Board were advised that profits from the Wildflowers Festival could be used to fund their pay rises?

(2) Is this money still available for this purpose; if not, why not?

(3) Is the minister aware that horticulturalists with the Kings Park Board are expected to supervise MetroBus redeployees who are earning $6 000 per annum more than them, and that this is leading to major morale problems at Kings Park?

(4) What action is the minister taking to ensure the enterprise agreement negotiations are finalised and Kings Park Board staff receive a fair pay rise?

Hon MAX EVANS replied:

I thank the member for some notice of this question. It has not been possible to provide the information in the time available. I request that the member place the question on notice.

WHITTAKERS LIMITED

1141. Hon TOM HELM to the Minister representing the Minister for the Environment:

Whittakers Limited's financial accounts for the six months ended 31 December 1998 were heavily qualified by the company's auditor, Ernst and Young, who stated that there was inherent uncertainty regarding the company's continuation as a going concern. The audit report also stated that Whittakers' ongoing operations were dependent on the continuing support of the company's bankers. Given this financial uncertainty regarding Whittakers' financial status, can the minister confirm -

(1) What is the total outstanding amount of royalties and any other payments currently owed to the Department of Conservation and Land Management by Whittakers?

(2) Has there been any arrangement entered into between Whittakers and CALM regarding the ongoing payment of royalties?

(3) Has CALM moved to enforce, or alternatively reinforce, its security arrangements with Whittakers?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) $3 599 001.27 as at 3 May 1999.

(2)-(3) Yes.

FREMANTLE PORT AUTHORITY INNER HARBOUR PORT DEVELOPMENT PLAN DISCUSSION PAPER

1142. Hon KIM CHANCE to the Minister for Transport:

In light of the Government's announcement of a new port at James Point -

(1) Will the Government now table a copy of the Fremantle Port Authority inner harbour port development plan discussion paper prepared in April 1998?

(2) Has a subsequent report on the development plan been prepared?

(3) If yes, will the minister table that subsequent report?

(4) If not, when does the minister expect that the report will be completed?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(4) The discussion paper was an initial draft of a report covering the port development plan for the inner harbour prepared for the steering committee, and it has been revised and added to. I am prepared to arrange for the member to review the latest draft of that report, which should be available in approximately two weeks' time, on the understanding that the member respects the fact that it is not yet finalised and is consequently not yet a public document and is not to be copied or made available to the public.

JUDICIAL SUPPORT OFFICERS

1143. Hon E.R.J. DERMER to the Attorney General:

(1) Is the Attorney General aware of concerns that the role of judicial support officers - that is, bench clerks - is to be contracted out?

(2) Can the Attorney assure those officers that this contracting out will not take place?

(3) If it is to take place, what is the timetable for this contracting out and what arrangements will be made for these officers?

(4) What is the budgetary impact of this contracting out?

Hon PETER FOSS replied:

I am not aware of that suggestion. Therefore, I do not think I am competent to answer the remainder of the member's questions.

ARTS BOARDS

1144. Hon CHERYL DAVENPORT to the Minister for the Arts:

(1) Does the minister intend to repeal the care and control responsibility vested in the minister's arts statutory boards?

(2) Will the minister guarantee that he will not appoint persons of a similar mind-set to his own to his advisory boards?

(3) How does the minister justify the public criticism of the current statutory arts boards as being unaccountable?

(4) Has the Auditor General audited the annual financial statements of the boards of the Art Gallery of Western Australia, the Museum of Western Australia and the Library Information Service of Western Australia, and, if so, did he find them unaccountable?

Hon PETER FOSS replied:

(1)-(4) I find it a rather curious suggestion that I can repeal an Act. Is that an indication from the Opposition that it has some new role for the Minister for the Arts of which I am not aware? My understanding is that if there is to be a change in the nature of the legislation governing these bodies, it will be determined by Parliament.

Hon Cheryl Davenport: Will you put it up?

Hon PETER FOSS: Yes. It is already before the other House. Perhaps I should ask what the Opposition's intentions are with regard to that matter. I am rather curious. I do not intend, by any legislation I put forward, to repeal the care and control responsibility. The whole intent of the legislation is to emphasise it, because my concern has been, particularly under the Labor Government and especially with regard to the notorious incident involving the sale of the Percy Markham collection, that the current arrangement does not sit well with the care and control that the Government would like to see exercised by those organisations. I have made my position clear, and everybody in this Parliament would sympathise with it. One matter that came out of the report of the Burt Commission on Accountability was that every statutory authority should be subject to the direction of a minister in order to be appropriately accountable to Parliament. Otherwise, there is considerable difficulty in holding those people accountable to Parliament, because if I am asked a question about any of those bodies, under the strict interpretation of the rules I can say, "I am terribly sorry. I am not accountable for that particular body. It is an independent statutory corporation. If you want to know what is happening there, you can write to them."

Erskine and May makes it quite clear that one of the problems with statutory corporations which do not have this requirement that the directions of ministers be followed and that the information be made available is that except to the extent that ministers cooperate, people are not entitled to the information, and except to the extent that I am prepared to chase it up because I think it is helpful, I am not obliged to. It is not the role of the Auditor General to comment on whether or not the legislation is the appropriate legislation. That role was taken on by the Burt Commission on Accountability, and every piece of legislation which has come before this Parliament since which has set up a statutory corporation has included a clause such as I mentioned, which allows the minister to direct these bodies and to require them to provide information to the minister with respect to parliamentary questions.

I had hoped that the Opposition had learnt from the days of the Burke Government when that accountability to Parliament did not exist and that it would support that. In fact, I have noticed that every time it has come before this Parliament, the Opposition has supported it.

WATER CORPORATION, HARVEY TENDER

1145. Mr THOMAS to the Minister representing the Minister for Water Resources:

With regard to the Water Corporation's advertisement in *The West Australian* of 27 March 1999 calling for interested companies to pre-qualify to tender for the construction of the Harvey trunk main, I ask -

(1) Did Lamac, the 1998 Western Australian small business company of the year, apply for the pre-qualification tender document by way of a phone inquiry, as stipulated in the advertisement?

(2) If yes, was the pre-qualification document provided to it?

(3) If not, why not?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) No.

(3) As detailed in the Water Corporation's general conditions of tender, the corporation reserves the right, in its absolute discretion, to refuse to consider or to accept any tender. The corporation may, without giving reasons, reject or refuse any tender or refuse to undertake any business of any nature with a tenderer with whom the corporation is involved in a dispute of any nature, whether or not litigation or arbitral proceedings have been commenced.

DIESEL, SULFUR CONTENT

1146. Hon TOM STEPHENS to the Minister for Transport:

(1) Is it correct that BP Australia Ltd has been urging the Government for a number of months to legislate to reduce the maximum permissible amount of sulfur in metropolitan retail diesel from 5 000 ppm to 500 ppm?

(2) Is it correct that BP states that the cost effect of this will be only 1¢ per litre?

(3) Is the minister aware that European countries are reducing levels to a mere 50 ppm?

(4) When will the Government be giving the approval sought by BP?

Hon M.J. CRIDDLE replied:

(1)-(4) I have not been directly lobbied on these issues. I have had some discussions with BP because we were arranging a tender for the buses in the Perth bus fleet to use a lower sulfur-content fuel, but to say that I was lobbied would not be a true reflection of those conversations.

ALINTAGAS, CERTIFIED EMPLOYEE AGREEMENT

1147. Hon HELEN HODGSON to the Leader of the House representing the Minister for Energy:

(1) Is there a current certified agreement in force for the employees of AlintaGas?

(2) If not, when did the certified agreement expire?

(3) Are negotiations under way for the creation of a new certified agreement; and, if so, what is the progress of negotiations?

(4) Has AlintaGas initiated proceedings in the Industrial Relations Commission in relation to the certified agreement?

(5) Will the certified agreement currently being negotiated address the issues of voluntary redundancies, redeployment and retraining, and staffing levels?

(6) Does the minister support the inclusion of these issues into the terms of the certified agreement?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I am advised by AlintaGas as follows -

(1)-(2) The AlintaGas Australian Services Union Certified Agreement 1997 expired on 23 February 1998 and the AlintaGas-Communications Electrical Plumbing Union Certified Agreement 1997 expired on 24 February 1998. However, these agreements continue to operate in accordance with the commonwealth Workplace Relations Act 1996 until replaced by some other arrangement.

(3) Negotiations for a common award and certified agreement have been going on with the Australian Services Union and the Communications Electrical Plumbing Union since April 1998. Agreement between AlintaGas, the ASU and the CEPU has been reached in principle regarding all issues except redundancy.

(4) No.

(5) The certified agreement currently being negotiated addresses all the issues except staffing levels.

(6) Yes.