

Legislative Council

Thursday, 25 November 1993

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 2.30 pm, and read prayers.

STATEMENT - BY THE PRESIDENT

Hansard, Transcripts from Tapes

THE PRESIDENT: I advise members that the Chief Hansard Reporter has advised me that it is impossible for him to provide Hansard reporters for this Chamber until after dinner. I am assured that the tapes are working and that the transcript will be taken from those tapes.

MOTION - SELECT COMMITTEE ON WESTERN AUSTRALIAN POLICE SERVICE

Appointment

HON REG DAVIES (North Metropolitan) [2.34 pm]: I move without notice -

That the membership of the Select Committee on the Western Australian Police Service be Hon Derrick Tomlinson, Hon Murray Montgomery, Hon P.H. Lockyer, Hon N.D. Griffiths and the mover, Hon Reg Davies.

HON JOHN HALDEN (South Metropolitan) [2.35 pm]: It can be seen from the names of the members appointed to serve on the Select Committee on Western Australian Police Service that the Opposition has nominated only one of its members to serve on it. It does not wish this to be in any way a trend or a precedent. It has put forward the name of only one of its members on the basis that yet again the Government demands the numbers on this committee. Hon Reg Davies, the mover of this motion and the chairman of a similar committee which was appointed last year, would not have the opportunity to be a member of this committee if the Opposition nominated two of its members to serve on it. On this occasion the Opposition is prepared to make that concession, but again the greed of this Government is self-evident. No doubt, with the numbers on this committee, a Government member will be the chairman, which breaks the precedent in this House that the mover of the motion to appoint a select committee is the chairman. I have not checked to ascertain whether, on the odd occasion, that has not been the case, but in the eight years I have been in this place I cannot think of an exception.

There has been a similar situation in this House where the Opposition went through ballot after ballot to try to test the Government's will, but the Government was greedy then and it still is. It wants the numbers, no matter what. This would have been an ideal occasion for bipartisanship if the Government had done one of a number of things which, I am sure, have been proposed from time to time. For example, the Government could have allowed for the appointment of two Government members, two Labor Party members and an Independent member, in this case Hon Reg Davies, the mover of the motion. Another proposition could have been the appointment of one person from each of the parties represented in this place; that is, a National Party member, a Liberal Party member, the Greens (WA) member, Hon Reg Davies and, of course, a Labor Party member.

It would be inappropriate for me to outline the details of the discussions which have been held, but I am aware that those proposals were put forward and were resisted by the Government. Again, not only all the standing committees, but also this select committee are dominated by the Government. It is another clear example that this House is not a House of Review; it is a House dominated by the Government. The Opposition reluctantly accepts this position because, in essence, there is very little it can do about it. It knows the tyranny of numbers in this place. It has experienced it quite severely in the last few weeks. Of course, it knows that if there is to be any fairness in the composition of the membership of the committee Hon Reg Davies should, at least, be on it and be the chairperson. If I were a betting person and if what I hear around this place is correct, I suggest to the House that he will not be.

The greed of members opposite will prevail at all costs because basically, as has been evident in recent times, they really are a greedy little bunch who are not prepared to share anything with anybody. What makes it worse is that it is just a blood-lusting for power. There is no financial remuneration for members appointed to serve on the committee. There are no lurks and perks - absolutely nothing - and for the chairperson it is more work and responsibility. My fear is that the numbers will be used on the basis of three to two in the committee and that would be regrettable. The Government will do what it wants to do. Perhaps my comments will be of some benefit to the Government and will persuade it to consider the matter sensibly and with fairness. If it chooses not to, and the Opposition is used to that, the Opposition will let it go through to the keeper. However, to use the words of Hon Bob Pike, the Opposition is counting; it is keeping a record of what the Government is doing and eventually its tyranny will be exposed for what it is; that is, nothing more than pure utter greed. The Opposition supports the motion.

HON B.K. DONALDSON (Agricultural) [2.40 pm]: I would like to clarify something for the information of Hon John Halden. The Delegated Legislation (Joint Standing Committee) comprises four members from the Labor Party, three from the coalition and an Independent member, Hon Reg Davies. Therefore, it is not weighted in favour of the Government.

Hon John Halden: Who has the chair?

The **PRESIDENT:** Order! Order! Members, I am not going to put up with the interjections. I might as well tell you early that I do not want to have a repeat of what has occurred over the last few days. Members will come to order. Everybody will have the opportunity to speak. It is disconcerting if interjections are rife throughout the course of a speech.

HON GEORGE CASH (North Metropolitan - Leader of the House) [2.42 pm]: The Government is prepared to accept the names put forward by Hon Reg Davies. I also take this opportunity to correct Hon John Halden: Last year I was appointed chairman of a select committee and I was not the member who moved the motion for the establishment of that committee. That committee happened to involve phone tapping and the complaint had been initiated by Hon Reg Davies. I am sure there has been a number of occasions in recent years where the mover of the motion has not been the chairman of the committee.

The other point I make is in respect of the Delegated Legislation (Joint Standing Committee). Hon Bruce Donaldson is right. He is the chairman of what is basically a bipartisan joint standing committee of both Houses. It might interest members to know that while it was claimed that the Liberal and National Parties had the numbers in this place last session, Hon John Halden was a very worthy chairman of the Delegated Legislation Committee.

Hon John Halden: Things have changed now.

Hon GEORGE CASH: He is now the deputy chairman.

Hon Reg Davies: The chairman of the committee has to be a Government member.

Several members interjected.

Hon GEORGE CASH: Quite so. In fact Hon Reg Davies is right. He is a former member of the Government, or might still be a member.

Hon Tom Helm: He is still a member, and a very active member I might say.

Hon GEORGE CASH: He is a very active member of the Delegated Legislation Committee and he is correct in his interjection that the chairman is required to be a Government member.

Hon Tom Helm: That's right. There are other committees, you know.

Hon GEORGE CASH: That puts paid to the argument that was put forward by Hon John Halden.

Question put and passed.

MOTION - URGENCY*Minister for Planning, SGIC's Parking Bays*

Debate resumed from 23 November.

HON PETER FOSS (East Metropolitan - Minister for Health) [2.46 pm]: It is somewhat ironic that a member of the Perth City Council, which was instrumental in that wonderful policy "Your car is as welcome as you are" - which was proclaimed by a little pink car with a happy little face on it - which actively encouraged people to come into the Perth central business district, and which also had a wonderful record as being both a regulator and operator of car parking, which obviously explained its "Your car is as welcome as you are" policy, has moved this motion. The conflict of interest which has quite evidently not only existed, but also been allowed to influence the decisions of the council was clear because it tried to regulate the parking so that its car parks were always better patronised than any of its competitors.

I have already pointed out that it was somewhat extraordinary that the Perth City Council's policy of allowing concessions on these sorts of developments which had taken place up and down St George's Terrace - it gave extra plot ratios to buildings such as the QV1 and perhaps some others - on the basis of a particular benefit to the people of Western Australia, that benefit had somehow along the way disappeared, but nonetheless the beneficial plot ratios remained. It was somewhat of a contradiction. I have also pointed out that it was the former Government which was responsible for its conniving in most of these decisions, including allowing the QV1 building to go ahead very much to the detriment of the amenity of the city. It did that by its conniving which resulted in the abolition of the Parliamentary Precincts Committee which had a very good record of making sure that the amenity of the city was preserved.

All of those things make this urgency motion total hypocrisy on the part of the mover, Hon Alannah MacTiernan, and I suppose on her analogy of conflict it could be said that she has a conflict in moving it. I personally do not see it, but on her sort of argument as to what conflict consists of she has a conflict because she is a City of Perth councillor. I think that is a nonsensical argument just like her argument with regard to the Minister for Planning is nonsensical.

I will not go that one step further, which Hon Alannah MacTiernan did and which I thought was quite indefensible without any evidence whatsoever and purely by a flight of her own imagination, to not only say that the Minister for Planning had a conflict, but also that he had allowed that conflict to influence his decision; that he was wrongly motivated in making that decision and that he was doing it to, in some way, benefit the State Government Insurance Commission to make up for its enormous losses. I do agree with the member that the SGIC certainly had immense losses, and members know that the reason for those immense losses was the expenditure of \$500m of its money in order to protect the Labor Party when it was in Government. It was to ensure that it was not clear that Rothwells had lost all its money.

The indication was that a clear conflict of interest was allowed to be used to dictate the then Government's behaviour. It was clearly not benefiting a State instrumentality, which is what this Government is being accused of doing, but at least that is a worthy outcome. When the Opposition was in Government it was doing that to benefit the Labor Party and to hide from the people of Western Australia that it had done all that money in Rothwells. It was trying to prevent that becoming known because it knew it would damage its election chances and it continued that lie right up to the 1989 election when it managed to get itself re-elected. That is the irony of this urgency motion.

The other extraordinary thing about this motion is the glowing terms in which Hon Alannah MacTiernan quoted the City of Perth's parking policy. Frankly, if I had anything to do with that parking policy, I would keep quiet about it. Hon Alannah MacTiernan correctly quoted the Chairman of the Town Planning Appeal Tribunal who said that the City of Perth's parking policy had no statutory force; therefore, any discretion which had to be exercised in a policy of that nature may not govern one's

decision. One of the basic ways in which one can have a decision set aside is to allow a policy to absolutely govern one's decision. The Chairman of the Town Planning Appeal Tribunal made it quite clear that he understood that to be the situation and that it was not only appropriate, but also required by law that each decision be made on its own merits. He also believed that to bind oneself by policy in those terms would be an impropriety and would be a ground for setting aside the exercise of discretion because it had not been exercised properly. I am pleased that the Chairman of the Town Planning Appeal Tribunal recognised that distinction and instead of slavishly following the policy he was prepared to look at it before making a decision.

However, having so carefully and correctly quoted the Chairman of the Town Planning Appeal Tribunal, Hon Alannah MacTiernan appears to have learnt nothing from it because she promptly started to treat the policy of the Perth City Council as being holy writ; that it was something which had to be followed slavishly and any departure from it was ipso facto an example of how people were making wrong decisions. She totally changed the character of the policy. She turned it into some form of statutory requirement, as if it was obligatory to follow it and any decision not to follow it was evidence of bad faith, bad planning and everything else bad of which one could think. Therefore, at that stage, I suddenly realised that this was not going to be a cogent argument; this was going to be one of those emotional arguments, a number of which we will hear from Hon Alannah MacTiernan in other debates. She is actually showing her petulance that anybody should come to a conclusion different from that arrived at by the Perth City Council. I can understand that, as one of the members of the Perth City Council, she feels very defensive, protective and proud of the decisions of the Perth City Council.

Hon A.J.G. MacTiernan: The office boy must have written this one.

Hon PETER FOSS: She believes that because it emerged from the Perth City Council, that renowned planning authority that has presided over the most extraordinary mess of planning that has ever been seen in any capital city -

Hon A.J.G. MacTiernan: That's not correct. The Premier said we were doing a good job.

Hon PETER FOSS: In planning it is not.

Hon A.J.G. MacTiernan: We have been doing a fantastic job.

Hon PETER FOSS: The Perth City Council has been renowned for its planning decisions. It was one of the last councils that got around to enacting a town planning scheme. It managed with these by-laws.

Hon A.J.G. MacTiernan: It managed to do so under the Labor Government, did it not, after years of Liberal Governments?

Hon PETER FOSS: What stopped it before then was internal politics within the Perth City Council.

Hon A.J.G. MacTiernan: And all those Liberal Lord Mayors.

Hon PETER FOSS: It was a disgrace for a capital city. It was one of the very last councils to have a proper town planning scheme. For years and years it just trailed along with incredible by-laws that were administered in the most ad hoc fashion. If the member is trying to hold up the Perth City Council as the epitome of planning prowess, I am afraid that I must disagree with her. I point out also that there is an inherent nonsense in the decisions of the council. Let us just take the first one. I will just read the decision -

A change of use ... was refused because of non-compliance with the requirements concerning:

- (a) the orderly and proper planning of the locality because it would set an undesirable precedent or would likely result in an increase in the number of similar type car parks;

- (b) the preservation of the amenities of the locality by virtue of increased pedestrian conflict and traffic congestion.

Let us deal with the first one, which is one of those lovely town planning statements. They are rote words used as the basis upon which the council denies or allows anything in town planning - because of the orderly and proper planning and the preservation of the amenity of the area. Those words have to precede almost anything the council decides. Then the council goes on to say that it would be an undesirable precedent. A few things indicate why it would not be a precedent. First of all, that policy was not a functional statutory policy. In law, each of the decisions had to be made on its own merits for its own purposes. Therefore, there should not be a precedent unless, of course, it was treating its policies as if they had some sort of statutory effect, and this would almost be a statutory variation to it. Again it shows the incorrect approach that the Perth City Council had to its own policy. In any event, let us look at when it went before the Minister for Planning, because he is certainly well aware of his statutory responsibilities. He knows, first of all, that he must act quasi-judicially. Obviously, acting quasi-judicially, he took the right step, in the same way as the Chairman of the Town Planning Appeal Tribunal did. He recognised that the Perth City Council policy had no statutory status. He made his decision in the light of the evidence and the policies placed before him. He did not apply a policy which would be improper; he made his decision on the facts and evidence before him. It does not create a precedent because each one is considered on its individual merits. That is what is required to be done by the law. That is what was done by the Minister. To say that it creates an undesirable precedent is elevating the policy of the council to a status which it does not have. The suggestion that there is a conflict is an extraordinary suggestion. The Minister for Planning has a statutory duty to carry out.

Hon A.J.G. MacTIERNAN: Yes, which he ignored.

Hon PETER FOSS: He has an obligation to do so. The Government of Western Australia represents the people of Western Australia. If one wanted to take it to some logical extension, one could say that a conflict exists whenever a benefit accrues to the people of Western Australia. He has an obligation as the Minister to ensure that he makes a decision on the merits and in accordance with his statutory duty. To make that sort of statement is unworthy, and to extend it further in the way Hon Alannah MacTiernan did was totally unworthy and unjustified. She offered no evidence other than her own nasty mind as to that being the reason for the Minister making his decision.

Hon A.J.G. MacTiernan: I never said that; it was you.

Hon PETER FOSS: We also established the rather garbled thinking of the member on this second ground of increased pedestrian conflict. Somehow the member seemed to think there was increased pedestrian conflict when there was long term parking as opposed to when there was short term parking. We all agree that short term parking involves more people going in and out. To come to the conclusion there would be more pedestrian conflict was being somewhat imaginative. The example was given that long term parking would also lead to more pollution. Again, short term parking would have more cars motoring into the city; long term parking would have only one car to occupy the spot. It is important to recognise that the city has a parking problem.

Hon A.J.G. MacTiernan: Now we have got more.

Hon PETER FOSS: And I am pleased to say that the Minister for Transport has recognised that. We should not encourage any more. The Perth City Council should not have allowed people to expend money building the car parks. It has done weird things with its policy over the years. Since I have been working in the city, the number of car parking bays per square metre - initially, they were not measured by the square metre - has varied enormously. The council's parking policy has affected people financially, but it is important that we do not have an inefficient, uneconomic system. Good, sensible environmental measures are also good economic measures, and generally speaking good economic measures should also be environmentally sensible. Any form of waste is bad for the environment and that includes economic waste. Generally speaking, if people are

creating waste, they are wasting money as well as affecting the environment. I have acted for people in environmental matters and have encouraged many companies to take a responsible environmental attitude. On every occasion on which that has occurred, they have actually ended up making more money. It makes good economic sense. Any form of waste is bad for the environment. It is bad to waste money in our economy. We should not have built the buildings along the Terrace in the first place. The Government caused that enormous amount of empty office space there.

Hon A.J.G. MacTiernan: The Government did? Is that right?

Hon PETER FOSS: It is economic waste. It is wasting the resources.

Hon A.J.G. MacTiernan: It happened in Sydney as well. It happened in New York and in Hong Kong.

Hon PETER FOSS: Government money was used to become involved in Central Park and Westralia Square. If the member wants to know where our money went, apart from into the pockets of Laurie Connell, Alan Bond and others, it has mainly gone into those projects.

Hon A.J.G. MacTiernan: The oversupply of office space occurs throughout Australia.

Hon PETER FOSS: One of the reasons that the Government does not have any money is the huge amount of rent that it is paying to maintain Westralia Square. Government departments, including the EPA, were shoved in there at unreasonable rates of rent. There is a good example of why that destroys our environment. If the EPA is forced, as was done by the last Government, to move into Westralia Square where it pays higher rent than would have been paid in the BP building, or whatever that building is called, it will have much less money to spend protecting the environment. That is one example, but it applies to every single part of government. If the Government spends exorbitant amounts on rent, it will have less money to spend looking after the environment, looking after people socially, and looking after their health and education. Any form of waste is bad socially, for the economy and for the environment. Waste is a waste.

The former Government and the Perth City Council set up this massive waste of parking spaces. Now these people come to the Perth City Council and say, "We want to use that space in a useful manner." Frankly, it is important that the people of Western Australia start earning some money. If they do not earn money, they will not be paying taxes. If they do not pay taxes, the Government will not be able to do all the things it needs to do in this State. We must start thinking in those terms. It is a really snide, nasty little attitude on the part of Hon Alannah MacTiernan. She does not want anyone making decisions that override her decisions, even though they are in accordance with council policy. The council's policies have created terrible waste and encouraged cars to drive into the city. Because the Minister has moved to clean up the mess, Hon Alannah MacTiernan claims that it is a nasty decision on the part of the Minister; that it must be a conflict of interest and for bad motives.

How we get from one to the other I do not quite know, but the Minister for Planning recognised that the council's decision was a silly one and he made a sensible decision. I hope we get a few more sensible decisions such as the Minister for Planning has made. At this stage, we must recognise that the Minister for Planning made quite plain what his reasons for decisions were. He has a quasi-judicial role and it is appropriate that he state the reasons for his decisions. The people are entitled to know the reasons for his decisions. I am quite happy for people to criticise them if they wish, but he has carried out his quasi-judicial duty and I do not believe that he should be required to make any further statement. The decision has been made properly and that is that.

This urgency motion is the biggest lot of humbug I have ever come across. It is another example of Hon Alannah MacTiernan carrying her council affairs into the Legislative Council. She is trying to fight the battle for the Perth City Council in every way that she possibly can, notwithstanding that the behaviour of the Perth City Council has been indefensible for years, and that it has had the most disgraceful record with regard to encouraging cars into the city that I have ever come across. Her attitude here, as a

member of a Government which caused that massive building program and caused that loss of money, is just too sickening for words. It would be ironic if it were not for the fact that it is sickening. The Minister for Planning has shown sound sense. We will not have similar appeals in future because, once the current Perth City Council goes, we might get a more sensible attitude towards parking in Perth. We will take down all those little pink cars with their little smiling faces and will not be saying to people, "Your car is as welcome as you are". We will probably have a sign that says, "Catch the bus or train."

Hon A.J.G. MacTiernan: You are real gurus in public transport, aren't you? In your last term in office you really expanded public transport, developed rail lines between Perth and Fremantle.

Hon PETER FOSS: We will cease to encourage cars in the city. Well before this matter was raised, Hon Eric Charlton, the Minister for Transport, expressed that view firmly. Of course, he is faced with the fact that those car parking bays are there already, but hopefully with the enlightened views of Hon Eric Charlton about that it will be a satisfying experience for the people of Perth. We will have a more reasonable approach to the provision of car parking; we will not encourage people to bring cars into the city; and we will recognise that in time the situation must be turned around so that there is greater use of public transport.

HON J.A. SCOTT (South Metropolitan) [3.06 pm]: While I agreed with Hon Peter Foss about many points, I felt that perhaps when we grow out of this House we could consider turning it into an opera house, because his performance was certainly melodramatic. It was interesting also to hear that the whole of the Perth transport problem was due to Hon Alannah MacTiernan. I wonder how she managed to cause so much chaos in so short a time!

One of the points which I did not notice Hon Peter Foss talk about, and it very much relates to this issue, is that parking is one part of an equation which ties in with the building of freeways and not with the development of public transport. It is all very well for Hon Peter Foss to talk about the need for less parking, but to build more freeways, like the proposed Northbridge freeway, for instance, will create more demand for the many parking spots that we have already. In general, his approach is somewhat different from that which I have heard expressed in the past, due to the push for more road transport, so I am encouraged that he realises that perhaps we should use those car parking spaces for other things, and I hope that in the future that will be the case.

HON A.J.G. MacTIERNAN (East Metropolitan) [3.08 pm]: I had hoped that after the Minister's involvement in the scurrilous conduct of the Government last night in this House, we might have a little less pious pontification from the Minister, but my hopes were dashed by his address today. The Minister has resorted to the defence of scoundrels. He said that I had no right to express concern about the Minister for Planning's appalling decision to ignore all planning principles and to grant those additional 146 commuter car parking bays because Perth City Council had made some bad decisions in the past. I must say, acting in a purely adversarial way, that I was glad to see that Hon Peter Foss is clearly out of touch with the happenings in the Perth metropolitan area. Had he any awareness of the operations of the Perth City Council over the last six years, he would have known that I have been the most trenchant critic of Perth City Council's parking policy.

Hon Peter Foss: I am glad you agree with that.

Hon A.J.G. MacTIERNAN: I have no embarrassment whatsoever in acknowledging Perth City Council's "Your car is as welcome as you" campaign.

Hon Peter Foss: You should join with me in condemning it then.

Hon A.J.G. MacTIERNAN: If the Minister could subdue his excitable Latin blood for a short time and listen to this address, he would probably find a great deal of instruction. Certainly that campaign was most unfortunate, and it was an embarrassing campaign to those who have an interest in progressive parking and transport policies. That campaign really sent out the wrong signal to the community.

Hon Peter Foss: We agree.

Hon A.J.G. MacTIERNAN: That policy was put in place in 1986. I joined Perth City Council in 1988 and, as I have said, was a firm critic of that campaign. I am pleased that by 1989 that campaign had been terminated.

Hon Peter Foss: You still can see some signs around, you know.

Hon A.J.G. MacTIERNAN: Rather than guillotine legislation, the Minister could perhaps employ himself more usefully by going around to Perth City Council and removing those alleged signs.

Hon Peter Foss: Can I remove them?

Hon A.J.G. MacTIERNAN: The Minister certainly can, because in fact that campaign has been out of operation since 1989. Therefore, what the Minister gave us was a lesson in ancient history - a lesson that was poorly researched. Over the last three years in particular, as the representation on the Perth City Council has become more diverse, and as the Perth City Council has steered away from being the captive purely of business interests, the council has shown a great deal more reserve in making decisions about parking matters within a policy environment. The council has come to appreciate the urgent need to reduce the number of vehicles moving through the city and to refocus on public transport and pedestrian amenity. I can hold up my head quite proudly and say that I was certainly one of the people who spearheaded that change in attitude. The council's rejection of both of the State Government Insurance Commission's applications is just one example of that changed attitude. Even the dreaded "Your car is as welcome as you are" campaign was directed towards short-term shopper parking.

Hon Peter Foss: That is not really an excuse, is it?

Hon A.J.G. MacTIERNAN: No. It is certainly not a total justification. As I just said, I was an opponent of that program. However, in regard to this overall issue of the conversion of short term to long term car parking, to focus on that campaign, although I agree it is a wrong campaign, is really to miss the point, because that campaign was directed towards shopper car parks and not commuter car parks.

Hon Peter Foss: I do not think that is an excuse.

Hon A.J.G. MacTIERNAN: No, it is not an excuse. I am just pointing out to the Minister that his argument was irrelevant. However, insofar as I have agreed with that in principle, I do not think we need to develop that point. It is important for the Minister to understand, because he does not seem to have grasped this fact, that the most profound problem that is created by the movement of vehicles into the city and the availability of car parking is the congestion that is caused during peak hours. Had the Minister, in his capacity as Minister representing the Minister for Planning, taken the trouble to read the report of the Department of Planning and Urban Development, he would know that the justification for that extraordinary proposal to spend \$250m on a trench through the centre of Northbridge is congestion on the major arteries into the city from the south during peak hours. The report focuses closely - and its figures are wrong - on the projected traffic loads that those arteries into the city will bear over a 10 year period. That is the basis for its claim that we need this proposed bypass around the north of the city.

These issues of long term car parking and the movement of cars into and out of the city during peak hours are of fundamental importance to long term planning strategies and, indeed, all transport policies. The Minister made various attacks on Perth City Council - I do not know where he has been for the last three or four years, because he has not appreciated the changes that have been made - and accused the City of Perth of having a conflict of interest.

Hon Peter Foss: No - of not using logic.

Hon A.J.G. MacTIERNAN: He could find no evidence of this. Indeed, the Minister should be aware that the Perth City Council in fact has been systematically reducing the number of long term car parking bays that it has. It has none in the central business

district. It has long term bays on the fringe of the city, and it is attempting to reduce the number of long term bays because it believes that is the right way to go.

I find extraordinary some of the Minister's statements about the propriety of the Minister for Planning's processes. No-one is asserting that Perth City Council's parking policy has legislative force. That is not the point. It has force as a policy, and it is one of those matters that clearly needs to be taken into account by any planning tribunal. The Minister for Planning has given us only a very limited version of what he has done. He has not in any way given any justification for departing from the planning considerations set down in the policy, other than to say there were economic considerations and that it was for the financial betterment of the SGIC. The Minister waxed lyrical about the quality of the decision of the Town Planning Appeal Tribunal, but he appears to have missed one major part, which I will read again to the Minister in case he has not had access to it.

Hon Peter Foss: Not quality; get the theory right.

Hon A.J.G. MacTIERNAN: I got the theory exactly right. My comrade to my left is telling me to ignore these pointless interjections. I am interested in engaging in debate. This statement by the Town Planning Appeal Tribunal will bring into stark relief the planning impropriety of the Minister's decision.

Hon Peter Foss: I am glad you are modifying that.

Hon A.J.G. MacTIERNAN: Yes. That shows what a reasonable person I am.

Hon Peter Foss: Eventually.

Hon A.J.G. MacTIERNAN: It states -

It is possible to imagine circumstances in which the commercial viability of a development might be examined by the authority charged with the responsibility of approving a development so that unnecessary and improvident development does not occur, where the development has always been carried out in accordance with the proposal of an owner of land -

As is this case -

However, a suggestion that the approved development is no longer viable would appear to be of marginal, if any, relevance to the outcome of an appeal in respect of a fresh development proposal on that land. The subsequent proposal clearly should be considered on its own merits free of any consideration of the viability of the existing land use. On that basis the evidence as to the commercial viability of the currently approved shopper car parking facility is clearly not relevant to this.

The Minister for Planning has made that the only basis for his decision. He has not considered or given any planning ground, and in making a planning decision and in exercising his discretion he has focused on what is clearly an approach which is not acceptable. He has exercised that discretion improperly. Once again, we have had all these attacks on the Labor Government. I point out to the Minister that the last Liberal Government was the Government that closed down the Perth to Fremantle railway. Under a Labor Government, we have had the massive expansion in public transport that we have today. It is certainly the case that the Labor Government believed there should be a planning authority for the centre of Perth; a position with which I fundamentally agree.

To illustrate the final hypocrisy of the Minister, he said that he was concerned about environmental factors. What he is basically saying is, "We will take notice of environmental factors only if we can make a quid out of it. We will not have fewer car parking bays in the city unless we can make a dollar out of it." It is cant and hypocrisy. It is an appalling decision, and what really frightens us is that this sort of decision will become more endemic now that we have once again handed control of the city to an old boys' network which answers only to business interests.

Motion, by leave, withdrawn.

MOTION - URGENCY

Free Speech, Suppression of; Health Department, Alleged Intimidation of Nigel Beckett

Debate resumed from 24 November.

HON KIM CHANCE (Agricultural) [3.24 pm]: Since the hour is drawing very close, and I would like to provide the Minister with an opportunity to respond today, I will cut short my comments. There is clear evidence from the information that I provided yesterday that Health Department management has set out to intimidate an employee in an attempt to silence his legitimate objections to what he sees as inappropriate management practices. Having done that, Health Department management has sought to rewrite events to its own advantage, both by the information it supplied to the Minister and by the wording of the file note which it asked him to sign, which bore little resemblance to the actual events at the meeting according to Mr Beckett, Miss Quinlivan and Mr O'Brien. I believe that the Minister should order an investigation into what took place at that meeting of 17 September, and also into the reasons for the disparity between the version of the events held by Mr Beckett and the ANF officers and the information supplied to the Minister for the answer that he provided to questions without notice 439 and 440.

HON PETER FOSS (East Metropolitan - Minister for Health) [3.26 pm]: Mr Deputy Chairman, the essential point about this is to be picked up from questions 439 and 440, in particular the final part of both questions, and perhaps the lead-in. Those questions were asked with only minimal notice. I have no problem with that whatsoever. I obtained some information. I made it quite clear to the member that I had not had any opportunity to investigate personally.

Hon Kim Chance: I did not pursue that.

Hon PETER FOSS: I realise that. I made that point not to absolve myself of responsibility for the answer but to make sure that the member knew the degree of my knowledge, because I think that is important.

Hon Kim Chance: That was accepted.

Hon PETER FOSS: Yes; I did make that clear. I said, "I must confess that I have not had an opportunity to investigate the matter." I repeated that, "I stress that I have not had the opportunity to investigate the matter personally", and stated also, "If the member does wish me to do so, I will be happy to."

As I understand it, it is an important allegation, and I do not have any difficulty with the situation. If the account given to me was incorrect, and if Hon Kim Chance found, after going back to his informant, that there was still a marked discrepancy that he wanted investigated, I will be happy to do so. I make no bones about that. However, I have over 24 000 employees in the Health Department and the usual method by which things like this are done, particularly by union officials, is to take a problem to the commission. That is the appropriate way this should have been investigated. However, I heard nothing more from Hon Kim Chance until I walked into the House and this sheaf of papers was handed to me with all the details. Then, during the course of the debate, Hon Kim Chance said that he had had the papers since two days after the event.

Hon Kim Chance: That applied only to some of them, Minister. I had to wait to raise this matter.

Hon PETER FOSS: I assume that the member had them at least four hours before he gave them to me because he had to give notice to the President to be able to bring on the urgency motion. I came into the House and I did not even have the notice of motion to allow me the opportunity to notify the department that Hon Kim Chance had raised the matter. It appears that he is not satisfied with the answer he was given. If he does want it to be investigated, if he genuinely is seeking some sort of answer and some form of redress, then, as the members knows, when a genuine problem is brought to my attention I deal with it. But I cannot deal with a matter if it is shoved into my hand as I come into the House and I do not even receive notice of the motion to be moved. I cannot deal with

that matter, especially when the member knows perfectly well that I made it quite clear I have no personal knowledge of the events.

Hon Kim Chance: Minister, that is not the issue. You are not being criticised for not pursuing the result of my question.

Hon PETER FOSS: No, but if the member intends to move an urgency motion, presumably it is because he believes there is something to be found.

Hon Kim Chance: There is a matter of urgent concern.

Hon PETER FOSS: Where was the urgent concern between September and November? If it was so urgent why was nothing done? Why does the member bring on an urgency motion and say that he did not tell me because it was some sort of punishment for my actions the day before? I will smack myself for being a naughty boy. I have taken that punishment. I have smacked myself, and I will be a good boy in future until the next time! Okay, I am being funny, but what is the situation? If the member genuinely wanted to have proper debate and wanted to do something for the people of Western Australia, in particular Mr Beckett -

An Opposition member interjected.

Hon PETER FOSS: He is not a damned priest. I do not know when he got it.

Hon John Halden: Minister, I am sure you would criticise him had he changed it without substantive evidence.

Hon PETER FOSS: I do not know when he got it.

Hon John Halden: It was very recently. I know. I share the same office.

Hon PETER FOSS: If I had been given four hours' notice we may have had a more useful debate.

Hon Kim Chance: Minister, you had 24 hours' notice.

Hon PETER FOSS: I have had notice now, sure.

Hon Tom Helm: Why are you waffling then?

Hon PETER FOSS: Why did he not give the matter to me to investigate if he really wanted a remedy? One does not get a remedy by raising a matter in the House. One achieves a remedy by raising it with the Minister. Let us deal with the situation: We have been hearing from the Opposition for some time how wonderful is the current industrial relations system. But within this industrial relations system we have an industrial person, a union official -

[Debate adjourned, pursuant to Standing Order No 195.]

CITY OF PERTH RESTRUCTURING BILL

Receipt and First Reading

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

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [3.35 pm]: I move -

That the Bill be now read a second time.

On Monday, 18 October 1993 the Premier announced the coalition Government's proposal to reform the Perth City Council to create a true capital city council and three new councils. The new capital city council will provide the focus for commercial, cultural and recreational activities by creating a heart for the metropolitan area. It also reflects the coalition Government's commitment to change by addressing problems the existing Perth City Council has been unable, and the previous Labor Government unwilling, to address. The Bill will put the "local" back into local government by

creating a compact, viable capital city council and three new councils encompassing existing residential areas. It will heighten the capacity of residents and ratepayers to have a more direct influence on their local priorities. It will ensure responsive and responsible local government. This Bill will finally address and resolve many of the criticisms of the structural impediments to change which have been highlighted in different ways by more than a half-dozen Government and non-government reports in recent years. Among the reports since 1986 which highlighted deficiencies are those entitled "Central Perth Policy Documents 1986"; "Planning Procedures for Perth's Central Area", the Mant report: "New Directions for Central Perth (CityVision) 1988"; "A Capital City for Western Australia", provided by the Chamber of Commerce and Industry in 1990; and "Capital City Planning for Perth", provided by the Australian Institute of Urban Studies in 1992.

The Government looks forward to the support of the Opposition for the initiatives in this Bill, given the statements by the Leader of the Opposition and some of her parliamentary colleagues, both Federal and State. Both the Leader of the Opposition and several former Ministers for Planning and Local Government expressed concern at the way the council addressed central business district issues. Yet it was the very same Labor Government in its drive for one-vote-one-value which forced the Perth City Council to reduce further the representation of the CBD. So we now have the ridiculous situation where only three councillors out of 27 represent the CBD. No wonder the CBD's interests are swamped by the local parochial interests and issues of the council's far flung, dormitory suburbs.

The foreshadowed dissolution of the council is no reflection on the personal commitment or dedication of the existing Lord Mayor and councillors; rather, this Bill recognises the need for structural change to allow the creation of the capital city council and three new towns. The Minister for Local Government has acknowledged the long and dedicated service by Councillor Mick Lee and Councillor John MacMillan, who are to be made freemen of the city.

So what is wrong with the council? Clearly, one of the major areas for concern is the council boundaries, with residents from City Beach in the west to Carlisle in the east. There is no community of interest between many of the areas currently constituting the Perth City Council. A review of the boundaries to establish viable councils with a more localised community of interest is desirable and sensible. It helps to emphasise the essential strength of local government; that is, its local nature. Another area of ongoing concern over many years has been the inability of the council to address planning issues in a coordinated way, recognising the legitimate interests of the State Government and its agencies. Once again, the creation of a capital city council will provide the opportunity for the development of new mechanisms which, combined with truly local representation, will enhance the city.

The Government has used the last six months to evaluate the problems and options in a careful and considered way. An independent report was commissioned from two consultants - the former Town Planning Commissioner Dr David Carr, and the former Stirling City Council city manager Mr Ralph Fardon. Their comprehensive analysis of the problems and possible solutions has been the basis for most, but not all, of the decisions reflected in this Bill. Despite the numerous reports published in recent years and several seminars, there have been calls for more consideration of the problems and options. Such calls for extensive periods of public consultation or polls ignore the need for some action to be taken to rejuvenate our city centre. The Premier has shown his commitment to addressing problems, such as graffiti, which is a major problem in the CBD, and this Bill will help focus attention on both the challenges and opportunities for a new capital city council.

Under the Bill three new councils will be formed out of the existing council's dormitory suburbs. Although the names for each of the three new councils reflect a major road identifying the council, the names are not fixed and the newly elected councils in 1995 will be able to determine new names if they so wish. One of the proposed councils will be Shepperton, based on the Victoria Park and Carlisle suburbs, and including the Burswood peninsula, to ensure a strong, viable council. In deciding to include the peninsula with the Burswood complex and Belmont Park racecourse, the Government has

recognised the strong geographic community of interest and the similarly strong sentiments of local residents. Those views were reinforced by the sound and reasoned representations of you, Mr President, and Hon Barbara Scott.

The State Government's decision also demonstrates how hollow the Opposition's views are in promoting conspiracy theories between the Government and business groups. This will also mean that \$1.25m in annual rates income will go to the new town of Shepperton. It will contain either two or four wards and a population of approximately 24 000. When elections are held for the council on 6 May 1995 electors will choose a mayor and eight councillors, either two councillors from each of four wards or four councillors from each of two wards. The new town of Vincent will be based on Mt Hawthorn and North Perth suburbs, but not including Northbridge which will remain within the Perth City Council. It will consist of either two or four wards and a population of approximately 25 000. When elections are held for the council on 6 May 1995 electors will choose a mayor and eight councillors, either two councillors from each of four wards or four councillors from each of two wards. The new town of Cambridge will be based on the western suburbs of Perth and will consist of either two or four wards and a population of approximately 23 000. When elections are held for the council on 6 May 1995 electors will choose a mayor and eight councillors, either two councillors from each of four wards or four councillors from each of two wards. The reformed Perth City Council will have a population of approximately 9 000, with the Lord Mayor and eight councillors to be chosen by the electors on 6 May 1995. No wards are to be provided for the Perth City Council. It will include the central business district and Northbridge and combined with Kings Park will provide a showpiece of cultural, civic, active and passive recreation areas as well as the commercial hub of the city.

The Bill provides for the existing Perth City Council - that is, the Lord Mayor and 27 councillors - to be dissolved seven days after assent. Five commissioners will be appointed to replace the Lord Mayor and councillors of the Perth City Council, and from 1 July 1994 when the three new councils are formed they will also be the new councils until the elections on 6 May 1995. The commissioners will be people of high public standing with a range of skills and attributes suitable to ensuring that the council's financial, civic and representative roles are maintained. The commissioners will continue in an advisory role to each of the new councils after the elections until 31 October 1995.

Much speculation has been generated by the Opposition suggesting that rates for the dormitory suburbs must increase if new councils are created. The detailed financial analysis carried out by the consultants confirms that there is no reason why rates need increase. The new councils will be established as debt-free entities with facilities equivalent to similar councils, using the substantial reserves of the existing Perth City Council. To reinforce the Government's view that the new councils will be viable and to ensure that residents' concerns are addressed, the Bill also provides access to parking and endowment funds by the new towns during the first full four-year term of office. This is provided for by requiring the restructured Perth City Council to obtain express approval of the Minister for Local Government to spend such funds during that period. At the same time the Minister is able to direct the Perth City Council to make payments from such funds to the new towns. It is planned that each new council will have its own offices: The town of Cambridge possibly at Floreat Forum, the town of Vincent possibly at the Loftus Centre and the town of Shepperton possibly at the Park Centre. All staff are to be given opportunities to transfer to one of the new councils, which may suit many staff, or to remain at Perth City Council. All existing benefits will be guaranteed, and there will obviously be opportunity for promotion for some staff into more senior positions in the new towns.

To assist the commissioners, all existing councillors will be invited to join advisory committees under section 180 of the Local Government Act. These committees will provide policy advice to the council, and will ensure an ongoing role for the former councillors in representing electors' concerns to the commissioners. In addition, three committees will be established to help guide future planning and development of the central area. The new committees will be the Premier's capital city committee, to

formulate policy and coordinate decision making; the capital city technical committee, to provide technical input and advice; and the capital city development committee, to provide a forum for business and commerce to participate in future planning.

To ensure that the existing council does not use the time of the Bill's consideration by Parliament to unnecessarily endeavour to thwart or frustrate the proposals, a limited form of veto is proposed. Under this provision certain matters will require ministerial approval before the council can proceed. All residents of Perth have been sent a detailed brochure explaining the Government's proposals. It can be seen that this Bill is a comprehensive approach to the opportunities that are before the Perth City Council. It will ensure that the new councils are better able to focus their attention on local priorities. It will also ensure that the reformed Perth City Council is able to enhance our city's natural features and to build an environment to create a truly world class city. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

BUSINESS OF THE HOUSE - URGENT BILLS

HON GEORGE CASH (North Metropolitan - Leader of the House) [4.38 pm]: Regarding the question asked earlier by Hon John Halden, I said that the Government intended to move to Order of the Day No 1, which is at the Committee stage. However, I advise the House that four or five Bills must be second read, two of which are Bills relating to amendments to the Business Franchise (Tobacco) Act. I indicated in discussions with the Deputy Leader of the Opposition that those Bills have some urgency and must be dealt with today as I understand that many millions of dollars are at stake if they are not processed by this Parliament today. The Deputy Leader of the Opposition has indicated that he is prepared to allow that course of action. As Hon Mark Nevill has indicated that he has a commitment outside the House within a relatively short period, we will try to expedite the carriage of those Bills to take into account Hon Mark Nevill's commitment.

HON JOHN HALDEN (South Metropolitan) [4.40 pm] - by leave: Normally these Bills would sit on the Table for a week following the second reading speeches. However, the Opposition understands the urgency of this matter as some \$30m is at stake. Upon being advised of the urgency of these matters, the Opposition is only too happy to assist the Government in the passage of this legislation.

BUSINESS FRANCHISE (TOBACCO) AMENDMENT BILL (No 2)

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [4.43 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to reduce the period for tobacco licences from two months to one, effective from the January 1994 licence period. This will reduce the potential revenue loss faced by Western Australia in the event of the High Court ruling that State business franchise licence fees are invalid. The need for this precautionary legislation has arisen from the case of Capital Duplicators v Australian Capital Territory, where the High Court has been asked to consider a challenge to a business franchise licensing scheme under section 90 of the Australian Constitution. That section permits only the Commonwealth Government to impose an "excise".

Although the Capital Duplicators case involves licence fees on the manufacture and sales of X-rated videos, there is a possibility that the High Court's decision may also affect the validity of all or some of Western Australia's existing tobacco, fuel and liquor licence fees. In the event that these fees were found to be in the nature of an excise, the Government could lose nearly \$400m per annum in current revenues, as well as being potentially liable for significant refunds of fees collected in the past. Working groups of State and Territory departmental officers are negotiating with Commonwealth Government officers on various measures to protect the revenues of the States and Territories. Although the principal safeguards will require Commonwealth "safety net" legislation, measures also need to be introduced at the State level.

This Bill aims to reduce the amount of tobacco licence fees which may be due but unpaid at the date of the High Court decision. In the event of an adverse decision, amounts due but not paid would not be recoverable by the Government. The amount of tobacco licence fees outstanding in Western Australia at the date of the High Court decision is potentially greater than in most other States because there is a two month licence period here but only a one month period in all other jurisdictions. Under current arrangements, a licensee has the opportunity to recover an equivalent amount of the licence fee prior to being required to obtain a licence. Consequently, the measure proposed in this Bill will reduce the extent to which a licensee may receive a windfall gain as a result of an adverse High Court decision.

Transitional provisions will apply to provide that the January 1994 licence fee, which is payable in December 1993, will be based upon a two month sales period. Thereafter, the licence fee will be based on sales in the month which is two months prior to the month to which the licence is to apply. Given the substantial revenue implications and the imminence of the High Court's decision, I encourage members to facilitate the speedy passage of this Bill through the House. I commend the Bill to the House.

HON MARK NEVILL (Mining and Pastoral) [4.52 pm]: The Opposition supports the speedy passage of this Bill through the House. We appreciate the urgency of the legislation because it must be passed prior to the anticipated High Court decision on 7 December; otherwise, the decision could have a serious impact on State Government finances. If the legislation is not passed well before that date, a windfall profit for tobacco merchants will result. The Capital Duplicators case depends upon how the High Court defines "excises", and if that definition is very narrow the State's powers to levy indirect taxes will be greatly affected.

Problems will arise if the State loses this taxing power as the Commonwealth will have to pick up these taxes, and under the Constitution it must levy a uniform rate. As members would all appreciate, different tax levels apply in every State on high and low alcohol beer and fuel - although I do not think Queensland has a fuel levy. It will be a difficult task for the Federal Government to work out the rates for these different taxes because if it sets the maximum rate, some States will have a dramatic increase in franchise fees. For example, in Queensland the price of petrol would increase by 7¢ or 8¢ a litre, which would certainly be difficult to accommodate overnight. I would prefer to see these taxes struck at a uniform rate.

Earlier in the session we debated legislation to increase our tobacco franchise fee to stop interstate trafficking and to make it less attractive for people to smoke cigarettes. As the Minister said in his second reading speech, some \$400m is raised by this fee annually, which we could potentially lose if Capital Duplicators wins the case. The Opposition, as usual, is keen to facilitate the passage of non-contentious legislation through this House.

HON MAX EVANS (North Metropolitan - Minister for Finance) [4.55 pm]: I thank Hon Mark Nevill for his support for this very important legislation, which must be rushed through the House. As Hon Mark Nevill stated, these different rates of State taxes around Australia create many problems. I understand that the tobacco franchise fee collected in this State is well down because many people bought millions of dollars worth of cigarettes on the last day before the fee increase to which he referred. We announced the fee increase on the Thursday, but we heard that the Eastern States needed more time

to get necessary computer programs in place. We should have announced the decision on the Friday night and fixed it that way. I understand that as the fee in New South Wales and Victoria is at 75 per cent and, as our fee is at 100 per cent, cigarettes are being bought in the other States and brought back to Western Australia. A great deal of money is involved in this area.

Standardising alcohol levies will be a problem because the top rate in this State is 11 per cent and the other States have a fee at 13 per cent. We did not increase the alcohol levy - as did the previous Government over the last couple of years - because the liquor industry is experiencing hard times and a two per cent increase on the levy would make it difficult for the industry to cope.

An astounding example of procrastination is the Dennis Hotels case in Tasmania, which was the first case in which a tax on cigarettes was attempted to be applied as a straight tax. It went to the High Court and was thrown out. The franchise tax, which is a licence fee, came in later. Really, the Federal Government should have faced up to the issue there and then; that would have overcome this problem. The possibility that this matter could be challenged again has been hanging over our heads for the last 20 years or more; it has arisen in the Capital Duplicators case in Canberra.

We do not know how the Federal Government will handle this matter, because, as was mentioned in the second reading speech, we could be up for a huge refund of tax paid over recent years. The Federal Government will apply what I call a windfall tax, which is a compensating measure for what we would have to refund. However, we do not know whether the measure is drafted yet or whether a delay will be involved. This has caused uncertainty right around Australia.

Representatives of Capital Duplicators said to the High Court, "If you must rule in that way, we will be scared that the Federal Government will be able to pick up the money under excise. Somebody should set it right." It is simple to state that idea in court, but the machinery involved will create many problems and headaches over the next few months in this State. I thank the Opposition for its support.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clause 1: Short title -

Hon MARK NEVILL: The Minister mentioned a possible windfall tax on beneficiaries of a windfall gain if the High Court decision is made accordingly. He implied that it was not definite that such a tax was to be introduced. Are any agreements or mechanisms in place with the Commonwealth to overcome problems in this State if the case is lost?

Hon MAX EVANS: No agreement was in place three or four days ago. Originally the Federal Government was talking about applying a wholesale sales tax - as we do - because such machinery is in place for the wholesalers. If the High Court ruled the tax to be invalid, we would have had to refund that tax. When the Commonwealth talks about this windfall gains tax - we have not seen any confirmation of this - the Federal Government might pick this up through its excise duties on tobacco, alcohol and petrol. I am not certain whether that is an easier or more difficult way to collect the tax, but I imagine that many more anomalies would be involved than with the States collecting the tax in that way. However, as of a few days ago, I do not know of anything in black and white indicating what will be done.

Clause put and passed.

Clauses 2 to 13 put and passed.

Title put and passed.

Report

Bill reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and passed.

BUSINESS FRANCHISE (TOBACCO) AMENDMENT BILL (No 3)*Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.05 pm]: I move -

That the Bill be now read a second time.

The measures contained in this Bill seek to strengthen the payment requirements of the Business Franchise (Tobacco) Act and are complementary to the measures contained in the Business Franchise (Tobacco) Amendment Bill (No 2). Taken together, the measures proposed seek to reduce the potential revenue losses faced by Western Australia in the event of the High Court ruling that State business franchise licence fees are invalid. Under the present provisions of the Business Franchise (Tobacco) Act, a licensee is required to pay a licence fee by the fifteenth day of the month following the two month sales period upon which the licence fee is based. However, there is no sanction in the legislation to discourage payment after the due date, and many licensees delay payment until the last day of the month prior to when the licence for the next period is required. Under current arrangements, a licensee is able to recover an amount equivalent to the licence fee in advance from its customers and retain that money for a period of up to 12 weeks, prior to having to pay the licence fee.

The measures contained in this Bill, in conjunction with the proposed monthly licence, will reduce this period to a maximum of five weeks. This Bill proposes to bring forward the due date for licence fee payments from the fifteenth day to the sixth day of the month following the sales period on which the fees are based. A significant sanction is also proposed where payment is made later than the sixth. A practical example will assist to demonstrate the effect of these measures when coupled with the proposed one month licence period. If current arrangements continued, the next tobacco licence fees would be due on 15 December 1993, for the January-February 1994 licence period. The fees would be based on sales in October-November 1993 and would total in the order of \$30m. Under the arrangement proposed in this Bill, the tobacco licence fees will be payable by 6 December 1993, still based on sales in October-November 1993, but providing a licence only for January 1994. Thereafter, monthly licence fees will be payable on or before the sixth of each month, based on sales in the preceding month.

The Bill also proposes that any licence fee paid after the sixth day of the month will be charged at double the normal rate; that is, at a rate of 200 per cent, rather than 100 per cent, of sales in the preceding sales period. However, the Bill also provides that the Commissioner of State Taxation would be able to remit the additional licence fee if he were satisfied that there were genuine reasons for the licence fee being paid after the sixth day of the month. Furthermore, the Bill proposes to strengthen the penalties for persons operating without a licence. Currently, the Act provides that a person selling tobacco without a licence is subject to a penalty of twice the licence fee that would otherwise have been payable. Consistent with the proposed increased licence fee for payment made after the sixth day of the month, it is considered that the penalty for outright evasion should be further increased. Accordingly, the Bill provides for this penalty to be set at four times the licence fee evaded by selling tobacco without a licence. This measure should further protect legitimate tobacco wholesalers from illegal operators in the industry. I commend the Bill to the House.

HON MARK NEVILL (Mining and Pastoral) [5.08 pm]: The Opposition supports this Bill, which is supplementary to the previous Bill. The second reading speech very clearly outlines the purposes of the Bill. It basically sets out penalties for people who do not pay the fee by the prescribed date. There has been a practice, I understand, of leaving the payment until the end of the month, which is quite a cost to the State and a rather big advantage to those who have to pay the fee. The date of payment has been brought forward from the fifteenth to the sixth of the month. The payment period now will be a one month sales period instead of two months and that brings it in line with all the other States. I do not say that I am a centralist, but I do like to see uniformity where it is an advantage.

The Bill also provides for fines for people who sell tobacco without a licence and it doubles the penalty for people who do not pay the fee on the due date, the sixth of each month. That penalty is automatic, but there is provision in the Bill for the Commissioner of State Taxation to waive that penalty for genuine reasons. The Opposition supports the Bill.

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.09 pm]: I thank Hon Mark Nevill and the Opposition for their support. In addition to the information contained in the second reading speech, I advise that we were informed on the quiet that the High Court of Australia could possibly bring down its ruling on 7 December on the Capital Duplicators case. The Business Franchise (Tobacco) Amendment Bill (No 2) says that if we are to lose money, the maximum we can lose is the amount for one month. People could have delayed making their payments and, if their payments had not been made and the Capital Duplicators case went against the State, they would not have had to pay that money, which represents a large sum for a lot of them. They would have collected the money from the retailers and held it in their bank accounts. Up to December, collections amounting to \$30m in State revenue have been made on a two monthly basis by wholesalers, the largest being Foodland Stores, Philip Morris Ltd, Rothmans of Pall Mall (Aust) Ltd, and W.D. and H.O. Wills (Aust) Ltd.

Hon Mark Nevill referred to the penalty for illegal operations. In the past quite a few schemes have been put in place to overcome the non-payment of duty, and I will not go into this because it might only promote more. This legislation will help to prevent that situation by providing that the normal penalty for such avoidance is quadrupled; that is, for example, if the duty on a packet of cigarettes is \$2, a penalty of \$8 a packet would be imposed on the offender. Obviously big money is tied up in this. When we dealt with the complementary legislation, the Business Franchise (Tobacco) Amendment Bill (No 2), we were unsure of whether the High Court would bring down the decision on 7 December; therefore, under this legislation the penalties will come into effect on 6 December.

On Monday, representatives from major wholesalers in the Eastern States telephoned me advising that they would have problems paying the duty as a result of this legislation. The manager of the Philip Morris company said, "We just will not be able to pay. You have hit the wrong man." As a result of my dealings with various clients during the past 20 years about the tobacco franchise tax, I said, "You have sold cigarette tobacco for October and November. Most of your customers pay cash, others pay within seven days, and a very few are given three weeks to pay, so at the end of two months less than 10 per cent of your money is outstanding." He said, "I think that is right." I could not believe this person was the manager of the Philip Morris company and he did not fully know about the running of his own business. I said, "How much money are we talking about? You might have had 20 per cent of the market, \$6m; therefore, you are talking 10 per cent of that, \$600 000. If you can't go to your bank and borrow that money nine days ahead of schedule, there is something wrong with your company. How can I make exceptions for you. You should borrow. I want the money." I explained, "I just cannot understand how you do not even know how much money you have received." The manager had to come back to me to advise me that the total amount involved was only \$2.4m. The amount outstanding for the nine days would only be \$300 000; a multinational company was quibbling over \$300 000 being paid nine days earlier because

its manager did not know enough about the business. The marketing manager of Rothmans, who knows me quite well, and I then had a chat about the position. I told him that I had talked to someone else about the matter who just did not understand the problem.

If the decision does not go against us, we will restore the status quo to the fifteenth of the month, which is the fair position. Until the decision has been handed down, the date for payment will remain the sixth, and I presume we will lose the revenue from the first to the sixth of the month. We must give at least seven days' notice of the changes. In fairness, notices offering a licence for the next month have been sent out to the wholesalers; however, a licence fee on a new basis cannot be offered without the legislation being passed. I thank the Opposition for its support.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and passed.

INDUSTRIAL RELATIONS AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

METROPOLITAN REGION SCHEME (FREMANTLE) BILL

Receipt and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Minister for Health) [5.12 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to reinstate in the metropolitan region scheme a controlled access highway reservation for that section of road commonly known as the Fremantle eastern bypass. This road reserve links the intersection of Stirling Highway and High Street, Fremantle with the terminus of the future Roe Highway as shown on the map in the schedule to the Bill. Urgent reinstatement of this reservation is required to provide certainty in the planning and development of the Fremantle area. Adjacent localities and the metropolitan region as a whole will also benefit from the reinstatement of an effective road network.

The reservation for the Fremantle eastern bypass was inserted into the metropolitan region scheme by way of an amendment approved in 1973. The purpose of including the reservation was to provide a key north-south link between Stirling Highway, which serves the northern suburbs, and communities in the south west corridor. Providing for that link recognised the critical need for an efficient movement of goods, services and people around Fremantle, as well as north and south of the Swan River. The proposed route also connected several important east-west highways; namely, the Canning, Leach and Roe Highways. In addition, it also delivered the benefits of improved access to the port facilities and the Fremantle town centre.

The strength of the 1973 arguments in favour of this facility are no less relevant today. In fact, the amount of development which has occurred in the Fremantle region since

then, plus that planned for the future, strengthens the case for the reinstatement of the Fremantle eastern bypass reservation. The former Government stands condemned for removing the reservation by way of a minor amendment to the metropolitan region scheme. It deserves a severe indictment for taking this action against the advice of a range of Government agencies and without regard for the conventional role of the State Planning Commission, which is the agency charged with responsibility for the metropolitan region scheme.

In May 1990 the Minister for Planning of the day, a member for East Metropolitan Region, directed the State Planning Commission to, among other things, amend the metropolitan region scheme to delete the controlled access highway reservation for the Fremantle eastern bypass. The commission sought the Minister's agreement to defer action until studies had been undertaken on the desirability of the proposed deletion. The studies concluded that there was insufficient evidence to justify the removal of the reservation.

The State Planning Commission provided the Minister of the day with the documentation required under the directive but, in doing so, stated its view that the proposed deletion was not recommended as it was and, at the very least, was premature and probably unjustified. Notwithstanding that recommendation, in October 1992 the Minister of the day, the member for Mitchell, approved the amendment and the reservation was removed. During the course of the amendment's passage through the statutory processes, the member for Applecross promoted, on behalf of the then Opposition, a Fremantle Eastern Bypass Controlled Access Highway Reservation Bill. Its objective was to negate the effects of any such amendment to the metropolitan region scheme, unless it had been passed by resolution of both Houses of Parliament. Had that action been successful there would not have been any need for the Bill I now present.

As a result of the previous Government's ill-advised actions, a totally illogical situation now exists. There are highway reservations for Stirling Highway as far south as High Street, and for a southern highway from Rockingham and Kwinana as far north as Roe Highway, but there is no connection in between. Even more illogically, the important regional road - that is, South Street - terminates in a local road now that the Fremantle eastern bypass has been removed. Not only were there no sound reasons to remove this reservation from the metropolitan region scheme, but also it must be remembered that for nearly 20 years there has been an expectation that the road link would be constructed. Much planning for the region has been predicated upon its completion. No fewer than 55 of the 115 properties needed for the road were under the control of Government agencies by the time of the deletion. The acquisition of those properties, many of which were previously privately owned, will have been wasted unless this Bill restores that reservation.

It is obvious that the Fremantle eastern bypass forms a vital, indeed imperative, component of the major road network for this part of the metropolitan region. As a matter of urgency the reservation must be reinstated to ensure that there is a firm commitment to that facility. Planning can then continue against the knowledge that the bypass will be constructed. The strength of objections raised at the time of the amendment to remove the Fremantle eastern bypass reservation should have signalled to the former Government that its actions were not prudent. Apart from the State Planning Commission, the Main Roads Department, the Department of Transport and the Department of State Development all made strong representations against the proposed deletion, as did the Fremantle Port Authority. Furthermore, objections were not confined to agencies of the State. They were also expressed by local government authorities in the area - the Cities of Melville, Cockburn and Rockingham, and the Kwinana Town Council. Public reaction at the time was also weighted in favour of the retention of the reservation. Also, since the Government's intention to reintroduce this important road link was published, numerous letters of support have been received from community groups and individuals, including a former Australian Labor Party Legislative Council member, Garry Kelly, who wrote -

"... I support your proposal to legislate the reinstatement of the reserve. It will

allow a rational and reasoned debate on the transport needs of Fremantle to proceed with all options on the table".

What has come through in these representations is support for this Government's view that the negative consequences of removing the alignment of the Fremantle eastern bypass are obvious. First, as already indicated, without the bypass there will be a serious gap in the road network of the region impinging on the balance of the network and affecting planning decisions over a much wider area. Second, there will be severe constraints upon the ability of the port and local industry to increase their contributions to the region's economy. But, perhaps even more importantly, there will be a detrimental impact on the quality of life of people living in this part of Fremantle. This will result from predominantly residential streets being forced to carry through-traffic seeking to filter its way to destinations in the Fremantle area, or trying to get back to other parts of the road network. Furthermore, unwanted traffic in residential areas could not be discouraged by the use of traffic calming devices as no alternative routes would exist. From every viewpoint, therefore, the decision made by the former Government to remove the reservation for the Fremantle eastern bypass from the metropolitan region scheme was without justification. This Bill seeks to correct just one of the shortsighted approaches to planning by the former Government. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

PAY-ROLL TAX AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.15 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to reduce the burden of payroll tax on employers by extending the threshold levels to which the tax rates apply by a substantial 20 per cent. This concession is well above the estimated 3.75 per cent inflation rate for 1993-94, and reflects the Government's commitment to reducing the burden of this tax on employers in Western Australia. Complementary increases in the payroll tax exemption threshold levels are contained in the Pay-roll Tax Assessment Amendment Bill. These measures are to apply from 1 January 1994. They are estimated to reduce the Government's payroll tax receipts by \$5m in 1993-94 and \$11m in a full year.

The Bill lifts the payroll threshold at which the 3.95 per cent tax rate will apply from \$1.5m to \$1.8m. The payroll threshold at which the 4.95 per cent rate will apply rises from \$2.5m to \$3m, and the threshold at which the maximum six per cent rate comes into effect increases from its current level of \$3.125m to \$3.75m. It is estimated that as a result of these changes, and those contained in the Pay-roll Tax Assessment Amendment Bill, more than half of all employers liable for payroll tax will benefit from the reduced payroll tax rates in 1993-94. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

PAY-ROLL TAX ASSESSMENT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.17 pm]: I move -

That the Bill be now read a second time.

The main purpose of this Bill is to amend the Pay-roll Tax Assessment Act to implement the two payroll tax measures announced in the 1993-94 Budget; namely, to increase the payroll tax exemption thresholds and to exempt the wages of all apprentices from payroll tax. These two measures will come into operation from 1 January 1994.

The Bill also seeks to overcome an existing anomaly in the Act in respect of the grouping of businesses involving the beneficiaries of discretionary trusts and to provide for a simpler means of updating the list of exempt Government agencies. The Bill proposes to increase the annual payroll tax exemption level by 20 per cent, from \$375 000 to \$450 000. Similarly, the monthly exemption threshold level will increase from \$31 250 to \$37 500 and the weekly exemption threshold level will rise from \$7 212 to \$8 654. The increases in the exemption thresholds are well above the estimated 3.75 per cent inflation rate for 1993-94. They will exempt almost 500 businesses that currently pay payroll tax. Complementary increases to the payroll tax thresholds to which the payroll tax rates apply are contained in the Pay-roll Tax Amendment Bill.

The Bill also proposes to provide an exemption from payroll tax for the wages of all apprentices. At present, the Act provides for an exemption for the wages of only first year apprentices. These measures reflect the Government's desire to reduce the impact of payroll tax upon the Western Australian business community. Unfortunately, the re-election of the Federal Keating Government and the severe financial problems inherited from the previous State Government have frustrated our endeavours to provide even more substantial reductions in payroll tax this year. Nevertheless, at a time of very high youth unemployment, these initiatives will provide businesses with added incentive to employ young people and to provide them with skills which will have lasting benefits for our society. The cost to Government of these two measures is estimated at \$6m in 1993-94 and \$13m in a full year.

The Bill also seeks to remove an anomaly in respect of the grouping of businesses involving the beneficiaries of discretionary trusts. As the Act stands, two or more businesses are grouped where a person has an interest of 50 per cent or more in each of them. The rate of payroll tax applicable to the wages of a grouped business is then determined on the basis of the combined wages of all the businesses in the group. More often than not, this will result in the wages of the business being subject to a higher rate of payroll tax than if grouping had not occurred. The Act provides that the Commissioner of State Taxation may grant an exclusion from a group where a person has a bare 50 per cent interest in a business which is operated independently of other businesses in the group. However, where the interest is more than 50 per cent, an exclusion cannot be considered by the commissioner.

The problem which the proposed amendments seek to overcome arises because the Act provides that where a business is conducted on behalf of a discretionary trust, all the beneficiaries of that trust are deemed to hold an interest of more than 50 per cent in that business. This is necessary to ensure that the grouping provisions are not defeated by a beneficiary of a discretionary trust not having a specified interest in the trust property until it is distributed. However, an anomaly can arise under these arrangements. An otherwise independently operated business owned by a beneficiary of a discretionary trust will be grouped with a business conducted on behalf of the trust because the Act deems the beneficiary to have an interest of greater than 50 per cent in the trust's business. This is notwithstanding that at the time of distribution the beneficiary may receive little or even nothing from the trust.

The problem in these circumstances is that the commissioner is not authorised to exclude the business of the beneficiary from the group as the interest of the beneficiary in the discretionary trust is deemed to be greater than 50 per cent. The Bill seeks to overcome this problem by providing the commissioner with the authority to exclude a business operated by a discretionary trust from a group where one business is conducted substantially independently of the other. It must also be considered just and reasonable for that business to be excluded. This will result in a more equitable payroll tax regime while still providing adequate protection to the revenue.

Finally, the Bill proposes to repeal the current list of exempt Government agencies in schedule 2 of the Act. It provides instead for exempt agencies to be declared by way of regulation and gazettal. The proposed amendments will enable the list of exempt Government agencies to be updated for name changes and the formation of new departments without the need for amendments to the legislation on each occasion. As only in-house Government agencies will continue to be exempted, these arrangements will have no cost. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [5.20 pm]: I move -

That the Bill be now read a second time.

This Bill consists of a series of technical amendments to clauses in the Conservation and Land Management Act relating to commercial activities undertaken by the Department of Conservation and Land Management. These amendments are necessary to remove any legal uncertainty about the ability of the Minister and the executive director of the department to enter into commercial agreements with private individuals and companies.

The amendments relate to two specific areas of the Department of Conservation and Land Management's functions - the establishment of commercial tree plantations and conservation and utilisation of native plant species. Members will be aware that over a period of several years CALM has been actively promoting the establishment of commercial tree plantations on agricultural land in partnership with farmers. This scheme, in addition to providing an additional commercial crop for farmers, also contributes to amelioration of soil and water degradation. The tree planting program that CALM has developed is unique, because the tree crops are integrated into the farm so that traditional agricultural practice can be continued and the environmental benefits of trees are optimised. Integration of tree crops into farms has been made possible by the development of unique technical, economic and legal processes.

The legal principle on which the legal contract between the landowner and CALM or a private investor is based is a profit a prendre; that is, the right to take some profit from land owned by another person. This form of legal contract ensures that the landowner retains title to the land on which the trees are planted, while at the same time ensuring that the investors' rights to their share of the returns from the tree crop are legally secure. The original legislation which provided the legal basis for CALM to enter into tree planting agreements with farmers was incorporated into the CALM Act in 1988. More than 150 "timber sharefarming" agreements have been entered into with farmers, and over 12 000 hectares of tree plantations have subsequently been established on farms in partnership with farmers.

Prior to the original legislation being introduced there was extensive legal consultation, including a written legal opinion from Mr Heenan, QC. Over the past several months the legal basis for timber sharefarming agreements has been re-examined by the Ministry of Justice and legal representatives of overseas companies. This examination followed the agreement, by the largest pulp and paper companies in Japan and Korea, to invest in the establishment of large scale commercial hardwood plantations in Western Australia. As these investment proposals will involve expenditures of over \$200m, and because the tree planting projects will be in place for at least 30 years, there was an understandable requirement by all the legal representatives involved to remove any legal uncertainty that may exist, no matter how remote, in the existing legislation.

The amendments contained in this Bill reflect the considered opinion of all of the legal representatives of the Crown and the private companies. The amendments correct any legal uncertainty with respect to the following issues: Firstly, they remove any doubt as to whether the timber sharefarming agreement is a profit a prendre and confirm that these agreements can be registered and assigned. Secondly, they ensure that the executive director can act as an agent for another party when entering into timber sharefarming agreements, and that on assignment of a sharefarming agreement the agreement remains in force but the State is freed of any obligations of the agreement after assignment.

Thirdly, the amendments ensure that the executive director can employ the timber sharefarming agreements for the production of other products from trees other than timber - for example, leaf oils and chemicals - and removes any doubt that the executive director has the rights to harvest and dispose of timbers grown under sharefarming agreements. The provision requiring the approval of the Treasurer to exercise the general powers conferred under the Act to be involved in business undertakings is retained, but the section is amended so that the Treasurer's approval is not required for every single sharefarming agreement entered into.

The second series of amendments are required to ensure that the Department of Conservation and Land Management has statutory power to allow the utilisation of chemicals derived from native plants which have potential pharmaceutical uses, in a way that ensures that the plant resource is conserved and the potential benefits of these compounds to mankind are not lost.

Western Australia has a unique and diverse flora. In excess of 12 000 flowering plant species grow in this State, many of which are endemic. It is believed that, as a consequence of both the diversity of species and the fact that many species grow in a hostile environment, it is likely that many Western Australian plant species have evolved mechanisms which result in the production of unique chemical compounds that could have significant beneficial pharmaceutical properties. Recently, the National Cancer Institute of the United States of America extracted a chemical compound from a Western Australian native species belonging to the genus *Conospermum*. The compound which has been identified, patented and named conocurvone has been shown to be effective in *in vitro* trials in controlling the acquired immune deficiency syndrome caused by the human immunodeficiency virus, or HIV. The Department of Conservation and Land Management has formed a consortium of scientists who are working in collaboration with scientists from the National Cancer Institute and from the Australian Medical Research and Development Corporation to determine if this compound can be developed into an effective control of AIDS.

Currently a number of chemicals derived from plant species are being evaluated for their potential pharmaceutical benefits in a number of countries. Unfortunately, there are numerous examples where the inability of Governments to control the utilisation of native plants has resulted in their exploitation in a way that has resulted in no benefit to the country in which the plants exist and, in some cases, has led to a destruction of the species because of over exploitation. The amendments contained in this Bill are required to ensure that Western Australia retains control of the utilisation of native plants, particularly where they have the potential to yield beneficial pharmaceutical compounds.

The amendments firstly establish that the Department of Conservation and Land Management has the statutory powers to promote, research and encourage the use of flora for therapeutic and scientific or horticultural purposes. The Department of Conservation and Land Management is the only agency which has the management skills and legislative framework to perform these functions. The amendments also give the Minister and the executive director the powers to control the issue of licences to third parties for the use of flora for the purpose of developing the potential of products from that flora for therapeutic, scientific or horticultural purposes. These powers include the right to provide an exclusive licence to a third party. It is essential that the Minister and the executive director have these powers, firstly to ensure that the State controls the utilisation of its flora, and, secondly, to provide sufficient security of the plant resource to third parties to enable them to commit the funds required to develop potential

commercial products from native flora. For example, it may take up to 10 years, and an investment in excess of \$400m, to develop a pharmaceutical product from a naturally occurring plant source to control diseases in humans.

The amendments in the Bill have been made retrospective. In the case of tree planting agreements this is to ensure that those that have already been signed in good faith by all parties are not subject to a legal challenge in the future based on a possible technical flaw in the original legislation. The retrospectivity clauses are also required to ensure that patents, which cover unique processes relating to the production of conocurvone developed by CALM's research consortium, are not subject to challenge in the future.

This Bill is required to ensure that projects which have the potential to provide large benefits to the people of Western Australia are progressed as rapidly as possible. I commend the Bill to the House.

Debate adjourned, on motion by Hon Doug Wenn.

MOTION - LAND (TITLES AND TRADITIONAL USAGE) BILL

Referral to Standing Committee on Legislation

Order of the day read for consideration of the Bill in Committee.

HON KIM CHANCE (Agricultural) [5.26 pm]: I move without notice -

That the Order of the Day for committal of the Bill be discharged and that the Bill be referred to the Legislation Committee.

Mr President, there are other peripheral reasons but it is probably as well to spell out immediately the two principal reasons for this motion and why it should be supported by both sides of the House. Firstly, and probably most important, is that the circumstances under which this Bill was dealt with last night and early this morning are clearly not the circumstances that the Government anticipated. That is about as kindly as I can put it. The second reason is that we are dealing with an issue which has been developing for 200 years. For 200 years the people of Aboriginal Australia, and indeed non-Aboriginal Australians, have been waiting for some response to the question of the rights of Aborigines in Australia. It is a long time to wait. It would seem to me a dreadful shame if we were to make a mistake in the handling of this legislation simply because of some kind of obscene race between the Legislatures of Australia and Western Australia.

The Bill was brought into this House in an unusual manner last night. Members of the Opposition and, indeed, I hope the Government, are very much aware of the importance and the sensitivities which surround this issue, and the Bill is part of this issue. We cannot deal with the Bill in isolation. It is very important that we deal with this Bill while at the same time reading what is contained in the Commonwealth legislation. This House cannot deal with this Bill in isolation. It is fundamental to the functions of the Legislation Committee that it is able to look at both forms of legislation so we may confirm in our minds that the Bill we have before us is superior to the Commonwealth legislation - that is possible. We may also confirm in our own minds that the Commonwealth legislation contains aspects which the State legislation has not addressed. Some of those might be fundamental issues and they might take some resolving, but some of those may well be administrative issues; and indeed a number of administrative issues arise from both Bills that need some mature consideration. It is effectively the same argument that I put on a similar motion concerning the Workers' Compensation and Rehabilitation Amendment Bill; that is, it is very difficult to do that in this House even with the best will in the world. We all appreciate there is not a lot of that about at the moment.

The Legislation Committee is capable of making those mature considerations in a calm and reasoned way. We have an opportunity for the Government to regain some of the credibility and respect from the general public that it has lost in relation to this Bill. I am sure that members opposite feel that the Government's Bill does contain answers which have some advantages for the Aboriginal people of Western Australia, and indeed all of

the people in Western Australia. Clearly members on this side of the House do not concur. Whether this is the appropriate place to argue all of those points from scratch is another matter, but the other thing the Government has an opportunity to do here - if it were to support this motion - is address the public's perception of the Government's attitude to Aborigines generally. Frankly, at this day it has never been worse.

The public's attitude to the way the Government has treated Aboriginal people is that it is just appalling. Aboriginal Australians and non-Aboriginal Australians have seen the way the Government has handled the issue so far and seen its mishandling of the legislation, culminating in the farce which we saw last night and early this morning. I note that Hon Bob Pike is away from the House on parliamentary business, but after the farce in which he was so intimately involved, which was revealed by Hon Alannah MacTiernan and Hon John Halden to have been a fraud on the people of Western Australia, perhaps it is not so much Hon Bob Pike's duties which keep him from this House as much as his acute embarrassment. The Opposition certainly holds the view that there is very little in this Bill for Aborigines in Western Australia, but I am sure some members of the Government believe the Bill has merit and that it deserves public support.

Hon Tom Helm: There would not be many because they are not in here, are they?

Hon KIM CHANCE: I know that to be the case because I have spoken to members of the Government privately and I believe they are sincere in their view that the Bill has something to offer Aboriginal people. In moving this motion, the Opposition is prepared to offer the Government an opportunity to allow the processes of Parliament to work properly and, most importantly, to be seen to work properly. We are offering the Government an opportunity to salvage some self-respect out of its appalling mishandling of this issue so far.

I can assure the Government that if it accepts this olive branch we are offering, it will most certainly affect our attitude to the issue. One aspect which drove the fraudulent rush of the introduction of the Bill last night was the possibility that the Commonwealth legislation may somehow beat the State legislation to the punch. I am prepared to accept that perhaps the Government did not really know what were the time scales in Canberra for the passage of the Commonwealth legislation, although right now I do not entirely believe it to be the case. Everybody else in the world knew what was the time scale, but perhaps the Government genuinely did not. However, that excuse no longer holds firm. It is not a matter necessarily of trust. I think the Leader of the House and, by interjection, Hon Ross Lightfoot, suggested that they did not trust the Prime Minister. I do not know why they feel they cannot trust the Prime Minister of Australia, but I suppose they have some problems with him.

Hon Derrick Tomlinson: It must be politicians!

Hon KIM CHANCE: Unfortunately we are all politicians - we cannot criticise each other on that basis. The fact is that given the information we now have, based on current sitting times, we know that it is impossible for the Commonwealth legislation to pass through the Senate before 6 December. It cannot go through. Even if it goes through the House of Representatives tonight, which it is expected to do - we did not deny that it was likely to go through the lower House tonight; the newspaper stories which have been running all week on Graham Campbell have been saying that the Bill was likely to be voted on at nine o'clock Eastern Standard Time on 25 November - it is not going to get to the Senate until 6 December. Even if the Government thought there was a screaming rush last night, there is now no screaming rush to debate this Bill.

The Leader of the House reminded us earlier today that we have opportunities to discuss this legislation in a bit more detail. For example, we will have the short title to vote on and, of course, the Committee stage will allow us time to debate. However, I do not think that will be enough opportunity to sort out the differences we have. What is more, I do not think the debate will be all that productive at this stage. Government members and Opposition members - I was one of the Opposition members - said in last night's debate that they had not even read the Bill. Having sat all night, that opportunity has been denied us. I do not think that is the way we should be dealing with legislation of

this type; in fact, legislation of any type. Although it might be deplorable that we have not read the land titles legislation, as far as I was concerned the workers' compensation debate deserved priority because I believed that was the issue with which we would be dealing this week. I felt that I would be able to deal with the Bill itself because I was reasonably informed on the issue. I thought I could examine this land titles legislation over the weekend. Let us be entirely honest about this; we sometimes tend to slip over Bills fairly quickly or rely on our colleagues who may specialise in a certain field to deal with a Bill. However, for the first time in 200 years - I am talking about both the Commonwealth and State legislation - we have addressed the legitimate aims of the Aboriginal people of Western Australia. It is the first time in 200 years that the general population of Western Australia has said that there is a chance to sort out a problem. We should be dealing with this moment with reverence. We are privileged people in that we are the first legislators, either Commonwealth or State, to have the opportunity of addressing this problem. What are we doing with it? I am not criticising the Government in isolation; as legislators, we have all made some awful mistakes in this matter. This legislation is far too important to be rushed. The situation has developed into a race between one jurisdiction and another to get something in ink. That situation creates the potential for an awful mistake to happen which will remain with us for the rest of our lives. It is too dangerous.

What we are proposing will not hold up this legislation for months or even weeks. In fact, I would be delighted if the Leader of the House suggested a time by which the committee should report. We have deliberately left that out of our motion because we believe that is a matter for the Government to suggest to us, if it is prepared to take our offer seriously. I hope that, as the chairman of that committee, Hon Derrick Tomlinson can advise us on this matter. Surely the issue could be handled comfortably in a fortnight, possibly even in a week. I do not think we need to delay the legislation for a long time. I remind members of the Government that the Senate cannot handle the Commonwealth legislation until 6 December. Therefore, in this case, it is not a matter of the Opposition trying to tie a lead weight around the State legislation to prevent it from winning the race, if that is what the Government wants to do. I am sure that is not what the Government wants to do, and if I am right the Government will support the motion.

Hon Derrick Tomlinson: I think you are right.

Hon KIM CHANCE: Thank you, Mr Deputy President (Hon Derrick Tomlinson). If this motion is supported we will have the chance of rationally and reasonably comparing the qualities of the Federal and State legislation. The Leader of the House told us last night of the level of legal opinion and legal advice which has gone into drawing up the State's legislation. Both are the result of extensive research and learned legal opinion. Of course, two members of the legal profession will not agree if there is a dollar in it; nonetheless, if a member of the legal profession of the quality referred to by the Leader of the House believes the State's legislation is worthy of support we should take note of that. Hon Jim Scott has just handed me a cutting from the *The Australian Financial Review* which states that the Federal Government's Mabo Bill is facing delay until early next year after the two Green Senators, who hold the balance of power, yesterday indicated that they wanted pro-Aboriginal amendments, including possible mineral and veto rights.

Hon P.R. Lightfoot: That would destroy Western Australia, quite frankly.

Hon KIM CHANCE: We are not arguing here about the Commonwealth legislation, but Hon Ross Lightfoot is entitled to his view. In fact, I rather welcome the interjection because that is precisely the sort of issue we should be discussing in Committee. We must understand if there is a risk - and qualify that risk - in the proposals by the Green Senators. We need some legal advice about whether, in fact, the risk is likely to impact at all and, if so, over what time frame. It is important that we do not rush this legislation. I would very much like the Government to feel secure about the timing of debate on the legislation. The Leader of the House may care to comment.

So far our different positions have been based on two philosophical outlooks. While

members on both sides are reasonably - some even intimately - familiar with those philosophical questions, the fundamentals of the Bills are not sufficiently clearly understood by all of us. I do not believe members opposite are as familiar with the Commonwealth legislation as they should be and, from some of the comments they have made on that legislation, I am certain they do not understand its aims and what has, in a legal sense, been achieved. Similarly, I think some members on our side - I am certainly one, having not read the State Bill at this stage - can hardly claim to be experts on the Bill. However, it remains true that both Bills have been available for a very short time and, indeed, members on both sides of the Houses have indicated that they have not read this Bill. This is not the way we should be handling legislation for which we have been waiting 200 years. I commend the motion and I very much hope that the Government will support it.

HON TOM HELM (Mining and Pastoral) [5.58 pm]: I support the motion. Members will recall the comments prompted from the Leader of the Opposition, who is handling the Bill in this place, when he gave out some information regarding compensation and referred to the provisions in the Bill about compensation. I think it was admitted during that debate that the number of people who had read the Bill was limited and even fewer understood it. Perhaps the Leader of the House was wrong in giving us the advice he did; however, we will determine that later. The manner in which we are being asked to deal with this legislation is flawed. This legislation can be debased if it is passed without being referred to the Legislation Committee for scrutiny and without the changes being made which will reflect the sorts of things this administration would like it to. It is appropriate that this Bill be referred to the Legislation Committee. The record has shown that that committee is quite able to deal with some really contentious Bills - the juvenile justice Bills come to mind, which were about as contentious as this one may be both within the then Government and without.

Sitting suspended from 6.00 to 7.30 pm

Hon TOM HELM: I urge members to consider the good work done by the Legislation Committee. We should give the committee the opportunity to consider the contents of this land usage Bill away from the hurley burly of this Chamber. The committee will highlight the problems with this legislation and offer amendments to it, if necessary. The committee has a very good record. I remind members that the juvenile justice legislation of the previous Labor Government received careful consideration by the Legislation Committee. Some of its suggestions have proved to be correct, by anyone's standards.

Hon P.R. Lightfoot: The Act has largely been discredited today.

Hon TOM HELM: Hon Mark Nevill reminds us that some committee members knew that would happen. The House will not be surprised to learn that a few members of that committee opposed the presentation of that juvenile justice legislation. However, we believe in caucus solidarity and eventually that legislation was presented and passed. We hope that some of the proposed changes to that legislation being considered by the Attorney General are the result of the deliberations of the Legislation Committee.

I return to the land usage Bill, and its possible referral to the Legislation Committee. We have heard tonight that the Federal Mabo legislation has passed through the House of Representatives but has been referred to a committee for consideration and will be returned to the Federal Parliament on 6 December. That will give us some breathing space here, so that even if the State Government panics again and wants to ambush the House, we will still have time to get the legislation up and running before the passage of the Federal legislation. We should have the benefit of the deliberations of the Legislation Committee on this State land usage Bill. The Leader of the House gave me some advice regarding how compensation would be determined under this legislation. He referred to clauses 27 and 28 of the Bill.

Hon George Cash: I referred to clauses 37 and 38. I suggested that three parts needed to be considered, including part 4, which talks generally about compensation. There is a need to read the lot together. The reference to clauses 37 and 38 was in answer to the member's question yesterday.

Hon TOM HELM: The Leader of the House made reference to clauses 27 and 28 as well.

Hon George Cash: Yes.

Hon TOM HELM: Perhaps the Leader of the House reinforces my point that the Bill has many aspects and can be viewed in many different ways. The Legislation Committee will be able to consider those aspects and make them clear to members, and overcome confusion. As was demonstrated last night, very few members have read the amended Bill, which has been in our possession for less than 24 hours. It was a difficult situation, considering that we were debating the workers' compensation Bill and concentrating on that, to have the Mabo Bill dropped on us last night. Debate became heated at that stage.

Hon Kim Chance is perfectly correct. This Bill should be referred to the Legislation Committee before we move to the Committee stage to consider the clauses. Such an exercise will give more power to the coalition Government's view that this legislation is better than the Federal legislation. I am not trying to kid anyone or to insinuate that the Opposition will accept the legislation finally, but consideration of the Bill by the Legislation Committee will give the Government some credibility. Very few Government members have read the Bill in depth, and those who have will acknowledge that it is very difficult to understand. Hon Peter Foss would understand it; he looks as though he understands everything. He could show his brilliance at hearings of the Legislation Committee. He could give his views and explain what the legislation is all about. I take on board the reference by the Leader of the House to the meaning of clauses 27 and 28 and also clauses 37 and 38, but there appears to be some confusion regarding compensation.

Hon George Cash: The member mentioned clauses 27 and 28. However, yesterday I spoke about clauses 37 and 38. I drew that point to the attention of the member because clause 27 has nothing to do with compensation. It relates to the application of rules of natural justice. Part 4 deals with compensation, which begins with clause 28. The member may have misheard my reference yesterday.

Hon TOM HELM: I do not want to get into the meaning of the clauses -

The PRESIDENT: You are getting awfully close to it.

Hon TOM HELM: I know. I am attempting to point out the importance of this matter. Hon Peter Foss referred to the attack that Western Australia was under from the rebellious Greens in Canberra and how we were the last bastion of freedom in the western world. He said that we had to get this Mabo legislation up and running because, if not, the economy of the State would collapse.

Hon Peter Foss: It is appropriate. It is Thanksgiving Day today.

Hon TOM HELM: The Minister should give thanks that nobody took notice of what he said last night. He and other people were talking in a macho way about ramming Bills through. Hon Alannah MacTiernan pointed out that members opposite know what happens in the Federal Parliament.

Hon George Cash: The House of Representatives has rammed through 90 Bills this year.

Hon TOM HELM: I know.

The PRESIDENT: Order! I will inform the House what we are actually doing. I am gaining the impression that most members do not know what we are doing. We are debating a motion moved by Hon Kim Chance that suggests that this Bill be discharged from the Notice Paper and be referred to the Legislation Committee. I would think that the form that the discussion should properly take - I am not suggesting that the member is not doing this, but he is getting sidetracked - was to instance examples that exist in the Bill that may well be able to be elucidated by being referred to such a committee. The member should stick to that. He was doing it - and I can see that he is straining to stop deviating - but he is under extreme pressure from other members and he is falling for it. I suggest that he do not.

Hon TOM HELM: You are right, Mr President. I am easily led astray, particularly by the articulate people on the other side. I was trying to point out what that clause meant. The Leader of the House, by interjection, indicated an interpretation of the clause. I understand another meaning of it which we can develop at the Committee stage of the Bill. Perhaps we can agree to differ on the subject.

The Legislation Committee, which is not under the pressure that we are under in this Chamber, would be able to take evidence from people who could give a more concise view of the meaning of the clause. I asked a question of the Minister for Finance about the Valuer General. It has been mentioned that the Rudall River national park will be opened for exploration, which is a change of direction from that which the previous Administration took. It may be that, under this legislation, Rudall River will be subject to a claim. How will compensation be determined? A number of formulas exist. I rang the Valuer General's office and asked how those determinations would be made. The officer to whom I spoke could only quote what had occurred in the past. The Bill states that the public works legislation can play a part in determining compensation. The Valuer General might apply that formula and then arrive at a figure by adding 10 per cent or 20 per cent.

The whole idea of the legislation is to extinguish native title. The Government believes that that is okay; we believe it is not. However, the sweetener to the legislation is that indigenous people will be entitled to compensation which will be determined. That is an important aspect. In almost all circumstances, except when Aborigines can prove a traditional and cultural connection with the land, native title will be replaced by a dollar sign. That is the Government's policy and something on which the Labor Party would go to the barricade. The Labor Party would deal with the matter in a different fashion. However, we must accept that this present Administration won the election and is entitled to go down that track. Surely it is in the interests of the members in this Chamber and the people of this State - particularly Aboriginal people - that we know how the value of that land will be calculated. The Bill is open to interpretation. The Government says that it will compensate people for the loss by an amount that will be calculated. It should inform everyone of the formula on which that valuation will be based.

At present, the Minister for Finance, the Valuer General's Office, the Opposition, and the people who drafted the Bill, are not sure how the Bill intends compensation to be calculated. This is an ideal opportunity for Hon Derrick Tomlinson, as the Chairman of the Legislation Committee, to examine witnesses who can explain what will occur. That would add to the Government's argument that this Bill is a better piece of legislation than the Commonwealth legislation.

Hon Derrick Tomlinson: We know that already.

Hon TOM HELM: I am pleased. Therefore the member should support Hon Kim Chance's motion.

Hon P.R. Lightfoot: Only two of your colleagues are now listening to you. That shows how interested they are.

Hon T.G. Butler: They are out of the House on parliamentary business.

Hon TOM HELM: At this moment I am the only person in the Labor Party, along with my four colleagues who are now in the Chamber, who feels there is something worth talking about in this debate. When I sit down, I may not feel like listening to the rest of the debate. Last night when a quorum was called, the Government could not fill the Treasury benches.

Hon Peter Foss: We are all here now.

Hon TOM HELM: I do not know whether the Minister for Health is all there, let alone his colleagues. The unruly interjections from members opposite about how compensation will be determined, indicate that there is no chance of the committee reporting after 6 December when the Federal legislation goes before the Senate for determination. There cannot be any excuses about delaying tactics for not referring this legislation to the committee, so that it can be better understood and better defended, and

do what it is supposed to do in the relationships with Aboriginal people in this State. On the other hand, the reason given by the Government for this Bill being debated from last night until this morning was that once in place, it would be very difficult for the Federal legislation to succeed. Hon George Cash appeared on television and was reported in the Press as saying that there was a rumour that the Greens (WA) would present a Bill and that a deal would be struck with the Federal Government. Hon Peter Foss read a Bill that no-one else had seen and he believed it would be introduced - lawyers are funny people.

The PRESIDENT: Order! The member is straying off the point.

Hon TOM HELM: The Opposition was told that it had to debate the Bill last night and get it through this House, because otherwise a deal would be struck and the Federal legislation would be a fait accompli. It would then not matter whether the State legislation was passed, because the Federal legislation would make a nonsense of it. Again, the Government made a mistake. We can forgive that, too, because we have become used to it on this side of the House. The Opposition is here to help the Government not to make any more mistakes.

Point of Order

Hon PETER FOSS: The honourable member is now spending more time off the topic than on it.

The PRESIDENT: I have told him about that. The member should talk about the reasons that it would be a good idea to send the Bill to the committee.

Debate Resumed

Hon TOM HELM: I was trying to explain why it was a good idea to send it to the committee. We went through the second reading stage for certain reasons, and it has now been accepted that the information which was the basis for that haste was wrong. I am trying to demonstrate that we should not continue down that track. We have an opportunity now to take advantage of the Legislation Committee and the benefits it can provide. The Leader of the House has admitted that he heard a rumour and acted upon it - that was a responsible thing to do. The rumour was not right, but that was not his fault. However, we went through a very traumatic time and, although it was a useful debate, it was not necessary. There is now no reason to object to sending this legislation to the Legislation Committee to allow it to do its job. I see only advantages in that move. There would be some disadvantages if the Federal legislation were being rammed through the Federal Parliament and the State legislation had to be passed before that. That was the argument put, but it is no longer valid. I am pointing out the advantages of using the Legislation Committee, and the disadvantages of not doing so.

I imagine the Legislation Committee would examine this Bill and analyse the preamble which indicates that the Bill has certain intentions. That was the case with the juvenile justice legislation, which was a package of measures. That is the most well known Bill referred to that committee and I do not think anyone could accuse the committee - either the Opposition or the Government - of adopting a partisan view on that Bill. The Legislation Committee does not comment on the policy behind Bills, but rather on the intent of the Bill and areas where the Bill will not fulfil that intent. On the other hand, should the Bill go through the Committee stage in this Chamber, each clause will provoke either defence from the Government or attack from the Opposition.

Hon E.J. Charlton: I hope you would not be like that.

Hon TOM HELM: The Bill stinks. The Opposition likes nothing at all about this Bill, but it is prepared to debate it and to demonstrate its support for the Federal legislation. The Opposition will also demonstrate the negligence in this Bill. The Legislation Committee, on the other hand, would not be interested in those aspects or take them into account. The Opposition in this House will defend the Federal legislation and, as the best form of defence is sometimes attack, it will try to tear the State legislation to bits and discredit the Bill.

Hon E.J. Charlton: All the public debate has already taken place.

Hon TOM HELM: That is another reason this motion should be agreed to. There will not be much more public debate about the legislation. The only opportunity for further debate is in this forum, and that provides members of the Opposition and Government members with an opportunity to score political points. It is our job to do that.

Hon George Cash: No, it is not.

Hon TOM HELM: Hon Eric Charlton does not understand those things - they go right over his head.

The PRESIDENT: Order! The honourable member continues to get away from the principle of this motion, and he is wasting valuable minutes of his time succumbing to the interjections. He is allowing himself to talk about the differences between this Bill and some other Bill, instead of using his time to inform the House of the advantages the Legislation Committee would provide for the House in its discussion or understanding of the Bill. I am terribly concerned that the member is wasting his valuable time.

Hon TOM HELM: I am being sidetracked by Hon Eric Charlton. I am making the point that this is not necessarily a useful forum in which to debate the pros and cons of this legislation, because the Minister knows that we will use this forum to attack the legislation.

Hon E.J. Charlton: We are interested to know what you think about the other forum.

Hon TOM HELM: Which one?

Hon E.J. Charlton: The Legislation Committee.

Hon TOM HELM: That is what I am saying. The underlying advantage of that committee is that Hon Eric Charlton is not a member of it.

Hon E.J. Charlton: Tell us something more about it.

Hon TOM HELM: It has some good members serving on it. Hon Eric Charlton is highlighting what I said at the beginning of my contribution; that is, some members make inane comments which are not constructive. I know that all members are prone to that, but Hon Eric Charlton is the best at it. That sort of behaviour does not advantage anybody. If the Government is dinkum about this, it will take the Bill out of this forum and give it to the Legislation Committee to do what it does best. It can then come back to this place. The opportunity to score political points will be taken from both the Government and Opposition members. We do not agree with what the Government is doing, but some of the Government's arguments will be supported by the committee and we will be better placed than we are now and we will have less to fight about. I support the motion.

HON GEORGE CASH (North Metropolitan - Leader of the House) [8.01 pm]: The Government rejects the motion moved by Hon Kim Chance which calls on the House to discharge Order of the Day No 1 from the Notice Paper and refer it to the Legislation Committee. Hon Kim Chance gave a number of reasons which he suggested were sufficient justification to refer the Bill to that committee. One of them was that the Bill was brought on without adequate notice. Each member opposite seemed to be able to more than easily deal with the Bill in the 45 minutes allotted to him during the second reading debate.

Hon Mark Nevill: I have not looked at any detail to the extensive amendments to the Mining Act. I have not had time to do it.

Hon GEORGE CASH: That is unfortunate. I hope that over the weekend Hon Mark Nevill will put aside some time to do that because they are important and need to be examined.

The other point Hon Kim Chance made was that the issue was more than 200 years old and the Aboriginal people had been waiting a very long time for some sort of resolution. He suggested it would be a tragedy if all members were not satisfied that all of the bases were covered. I acknowledge it has been a long time in coming. After all, the High Court only made its decision last year and the Bill before the House is in response to its

decision. The Federal Government argues that the Bill before its Parliament is also in response to the High Court decision.

Hon John Halden: The only difficulty is that it is different because it does not cover one of the bases.

Hon GEORGE CASH: It is a matter of opinion, rather than a matter of fact. The Bill does cover the areas that need to be covered. Regardless of whether it was 100 or 200 years ago, we have a Bill before the House which addresses those issues which need to be addressed in respect of the High Court ruling.

Hon Tom Helm said that the Legislation Committee had been of great value to this House and I absolutely endorse his comments.

Hon Doug Wenn: Hon Peter Foss used it well last year so he should know that.

Hon GEORGE CASH: Most members on this side of the House, and I would hope all members of the House, acknowledge the tremendous work that has been done by the Legislation Committee. It has been a very supportive committee and it has done significant and good work for the Parliament. Hon Tom Helm mentioned the work done by the committee on the juvenile justice Bill. However, he failed to acknowledge to the House that that Bill was passed by the Parliament and then referred to the Legislation Committee. I understand the committee is about to report on that legislation. Be that as it may, it gives support to what Hon Tom Helm and I agree on; that is, that the Legislation Committee has done a lot of good work. Hon Tom Helm admitted that he has not read the Bill before the House and therefore does not understand it and he used that as one of the reasons it should go to the Legislation Committee. That is not sufficient reason to refer the Bill to the Legislation Committee.

Hon Mark Nevill: It is one thing to read it, but another to understand it.

Hon GEORGE CASH: We see evidence of that all the time in this House.

Hon Tom Helm interjected.

Hon GEORGE CASH: I said last night that Hon Tom Helm should refer to the compensation clauses which are clauses 37 and 38 and he obviously misunderstood me. In going to clauses 27 and 28 he would have found that clause 28 is the start of the compensation provisions. Clause 27 deals with procedural fairness, not compensation, which is an important element of the whole Bill.

Hon Mark Nevill: Have the various people who have an interest in this Bill been able to respond to the extensive amendments which were made only a few days ago.

Hon E.J. Charlton: The amendments are in response to that.

Hon GEORGE CASH: The Government has obviously had a significant amount of consultation with interested parties on this Bill. From the day it was elected to Government, the Premier and other Government members have been working diligently preparing drafts of this Bill and it now has this Bill which covers all the questions which have been raised by individuals and groups within the community. It has been the subject of intense investigation and the Government received considerable advice on various provisions in the Bill. That advice, much of it legal advice, has come from not only within Western Australia, but also outside it.

Hon Tom Helm: What about the Aboriginal groups?

Hon GEORGE CASH: I understand the Premier has met with various Aboriginal groups and has sought their views on this Bill.

Hon T.G. Butler: Did they take part in the earlier drafts of the Bill?

Hon GEORGE CASH: Before the Bill was drafted the Premier met with a number of Aboriginal groups and sought their views on how the Government might address the various issues. The discussions from the consultation process were used as input into framing this Bill. I refer to the question of the validity of the Bill to withstand a constitutional challenge in the High Court. The Opposition has indicated that it believes

there should be a challenge against the Bill in the High Court and certainly the Federal Government has indicated that it wants to take the Bill to the High Court to test its validity. The Government is satisfied that it has been framed in such a way that it will withstand any challenge. That is the reason that there were a number of drafts.

Hon T.G. Butler: It is not universally accepted. There is a contrary view.

Hon GEORGE CASH: Hon Tom Butler is correct, but when dealing with controversial constitutional matters like the Mabo question there will be a range of opinion across the spectrum.

Hon T.G. Butler: You cannot guarantee the Opposition that the Bill will survive a High Court challenge.

Hon GEORGE CASH: Again, Hon Tom Butler is correct. When one deals with the High Court there are no guarantees. However, we have done everything that is humanly possible to ensure that the provisions of the Bill do not breach the Racial Discrimination Act and that they fit clearly within the constitutional provisions that the State is entitled to administer; and we believe they could withstand any challenge. That is why we spent so much time putting the Bill together.

Hon T.G. Butler: I appreciate that you have taken a long time putting it together. What we object to is the amount of time it has taken to go through this House - introduced one day and dealt with the next.

Hon GEORGE CASH: I do not know whether Hon Tom Butler -

Several members interjected.

Hon GEORGE CASH: I have explained to the House why the Bill was brought on yesterday and that my preferred choice would have been to bring it on next week. Mr Deputy President, I heard the interjection from Hon Jim Scott, the only Greens member of the House. Is it not interesting that one of the matters raised last night, which caused me to decide to bring the Bill on to allow members to make their second reading contributions, was the fact that we had been given advice that the Greens senators from WA were to introduce a Bill into the Federal Parliament. I would have thought that at some stage of the game Hon Jim Scott would have stood in his place and admitted that he had some knowledge of that.

Hon J.A. Scott: I will stand and given an explanation if you will let me.

Hon GEORGE CASH: Why did he not stand, come clean and tell us that his Greens colleagues in the Senate of the Federal Parliament were doing that? The Bill they were introducing is a treacherous Bill, and all they wanted to do was to wipe out the rights of the State to manage its land. Quite clearly worse than that, they were embarking on a course that would destroy the economy of Western Australia. It would destroy jobs, and obviously that is what the Greens are all about and the sooner the people of Australia hear about it the better, so that they can make their own judgment. Worse than proposing that this Bill be put before the Federal Parliament, members should note that clause 5 of the Statutes of native title states -

Until the Parliament provides otherwise, no law of the Commonwealth or of a State or Territory enacted on or after 1 July 1993 is capable of -

- (a) Extinguishing native title or
- (b) Modifying native title.

The Greens would introduce a retrospective Bill to try to prevent the State of Western Australia from enacting laws concerning the administration of its lands. I have made the point before but quite clearly there is a need to make it again: The Bill that is before the House provides a fair solution for all Western Australians, and it ensures that land management will remain under the control of the State.

Several members interjected.

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! Hon Tom Butler has been

continually interjecting. I want to let the debate flow a bit because it is an important one, but there is a limit. He has made five or six long interjections, and if it goes on I will have to take action. I ask other members to be reasonable and let the debate flow, then all members will have a chance.

Hon John Halden: To speak!

The DEPUTY PRESIDENT: There are no guarantees.

Hon GEORGE CASH: I have said that the Bill in its present form provides a fair solution for all Western Australians. It will enable land management in this State to remain under the control of the people of this State through their elected State Government and, more than that, it will provide certainty of land title for existing and future title holders. When it becomes the law of the land it will reinforce the State's constitutional right to make laws on land management matters within Western Australia. It gives recognition to the decision of the High Court, but rather than give recognition by referring to the words "native title", we have talked about traditional usage, traditional laws and traditional customs. If it happens that this Bill does not pass through this Legislative Council because of the delaying tactics and the general obstruction of Government business that the Opposition is quite clearly intent on carrying out, and if it happens that Prime Minister Paul Keating's Native Title Bill becomes law, the Federal Government's Bill will in the end destroy the economy of this State. If it destroys that economy, it means an awful lot of people will lose their jobs.

There is no need for this Bill to be referred to the Legislation Committee. I hope that all members opposite in the last few weeks or the last few months have been studying the question of the Mabo decision as it impacts on Western Australia and the rest of Australia. I do not know whether any Opposition members have taken that opportunity, but, quite clearly, some Opposition members now admit they have not bothered to read the Bill.

Hon John Halden: That is not surprising as it has not been here 48 hours. You are the architect of the problem and you are criticising us for it!

Hon GEORGE CASH: We were here until seven o'clock this morning, and that surely would have provided members with an opportunity to read the Bill and understand it. If Hon Tom Helm wants to get a briefing from one of the Crown officers, especially on the question of compensation so that we answer some of the questions on compensation, I am more than happy to arrange it for him.

Hon Tom Helm: Don't convince me. It will be the people applying for the compensation you should be convincing, not me.

Hon GEORGE CASH: When this Bill is enacted and becomes law the community will understand that the compensation provisions are very fair and equitable; in fact, if one reads the part of the Bill that deals with compensation one sees that a lot of time and effort has been put into it to make sure that all bases are covered.

Hon Tom Helm: By any fair assessment clause 27 through to -

Hon GEORGE CASH: It is clause 28.

Hon Tom Helm: They are all connected. By any assessment of those clauses it is the minimum amount of compensation, whether it be money, land, machinery or anything else.

The DEPUTY PRESIDENT: Order! The honourable member made that point in his speech, and that was a rather long interjection.

Hon GEORGE CASH: Hon Tom Helm is right. Part 4, which starts at clause 28 and goes through to clause 40, deals with compensation. Clause 37 very clearly sets out how compensation is to be determined. Clause 38 lays down a number of principles which must be considered in determining the level or amount of compensation. It is all set out there and it is really a case of members taking the opportunity to read and understand what it is all about.

Hon Mark Nevill: This Bill will be back here before you know it.

Hon GEORGE CASH: The move by the Opposition to have this matter discharged from the Notice Paper and referred to the Legislation Committee is no more than a continuing delaying tactic. I do not believe that the motion has been moved in good faith.

Hon John Halden: What an outrage.

Hon Mark Nevill: That is nonsense.

Hon GEORGE CASH: The Opposition is intent on wasting the time of the House.

Hon John Halden: What about thorough scrutiny?

Hon Mark Nevill: It will not take the time of the House; it will be with the committee.

Hon GEORGE CASH: The Opposition will use whatever tactics it can to obstruct the business of the House. The Government does not support this motion. I would not be surprised if a few more procedural style motions come up, because I am sure the Opposition will spend the rest of the night, if possible, moving other motions to try to prevent the Bill going into Committee.

Hon E.J. Charlton: I thought it wanted to debate it?

Hon GEORGE CASH: It wants to debate it on one day, and the next day it says the Legislation Committee will do all the work so the Opposition will not have to do the work. It seems members opposite want the Legislation Committee to give them a big tick, and then they will agree with it. This is a time wasting exercise by the Opposition. The Government cannot allow the time of the House to continue to be wasted on this matter. There is a need for a decision.

Hon Mark Nevill: How pathetic.

House to Divide

Hon GEORGE CASH: Therefore, I move -

That the Council do now divide.

Division

Question put and a division taken with the following result -

Ayes (16)		
Hon George Cash	Hon Barry House	Hon B.M. Scott
Hon E.J. Charlton	Hon P.R. Lightfoot	Hon W.N. Stretch
Hon M.J. Criddle	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Muriel Patterson (Teller)
Hon Max Evans	Hon M.D. Nixon	
Hon Peter Foss	Hon R.G. Pike	
Noes (12)		
Hon T.G. Butler	Hon John Halden	Hon J.A. Scott
Hon Kim Chance	Hon A.J.G. MacTiernan	Hon Bob Thomas
Hon J.A. Cowdell	Hon Mark Nevill	Hon Doug Wenn
Hon N.D. Griffiths	Hon Sam Piantadosi	Hon Tom Helm (Teller)

Question thus passed.

Motion

Question put and a division taken with the following result -

Ayes (12)		
Hon T.G. Butler	Hon John Halden	Hon J.A. Scott
Hon Kim Chance	Hon A.J.G. MacTiernan	Hon Bob Thomas
Hon J.A. Cowdell	Hon Mark Nevill	Hon Doug Wenn
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 Hon P.H. Lockyer
 Hon Murray Montgomery
 Hon M.D. Nixon
 Hon R.G. Pike

Hon B.M. Scott
 Hon W.N. Stretch
 Hon Derrick Tomlinson
 Hon Muriel Patterson (*Teller*)

Question thus negatived.

PERSONAL EXPLANATION - BY HON J.A. SCOTT

Misrepresentation by Hon George Cash

HON J.A. SCOTT (South Metropolitan) [8.28 pm] - by leave: Hon George Cash has said that I have been involved in some form of treachery by not bringing to the notice of the House a Bill that was proposed by Greens (WA) senators in Canberra, a copy of which was sent to me yesterday afternoon.

Hon E.J. Charlton: So now the truth comes out.

Hon Peter Foss interjected.

HON J.A. SCOTT: Hon Peter Foss misrepresents me because I have not made a speech about "representivity". I have not accused him of that at all; he has the wrong person. Hon George Cash constantly likes to mislead not only the House, but also the general public.

Point of Order

Hon P.R. LIGHTFOOT: On a point of order.

Hon John Halden: Here is the lackey. Out comes the lackey.

Hon Mark Nevill: Get out your silk handkerchief.

Hon P.R. LIGHTFOOT: It is unparliamentary to say that the Leader of the House constantly tries to mislead the House.

The PRESIDENT: That is not a point of order.

Personal Explanation Resumed

The PRESIDENT: I will say this to the member who has the call. He has leave to make a personal explanation in regard to some matter that concerns him, but he is not allowed to raise any debateable matter. He must explain what this matter of a personal nature is without raising any debateable matter. The reason is that the other members cannot respond to the debateable matter. Does the member understand that?

HON J.A. SCOTT: As an inexperienced member guidance is always welcome. Any legislation that any members of the Federal Parliament have proposed, whether they be Liberal Party members, Greens (WA) members or National Party members -

Hon John Halden: Not National Party members; they can barely write.

HON J.A. SCOTT: I know the sort of legislation proposed by the Federal Greens members -

Several members interjected.

The PRESIDENT: Order! I will not tolerate constant interjections. Honourable members have all spoken, from time to time, about the amount of time we have taken to do things in recent days in this place - then everyone ensures we take more and more time. Members gave the honourable member leave to make the statement. For goodness' sake, let him make the statement.

HON J.A. SCOTT: As I was saying, when other members of this House have received faxes from their Federal colleagues, I have not yet had one of them send me the information on those faxes on any occasion. I do not believe I have had any need to do

so. I do not believe there is any rule which says I must show Hon George Cash my personal faxes. I am sure he will agree he has not shown me any faxes he has received from his Federal colleagues. If he has, I must have been deaf and blind at the time. He suggested at question time that as a result of action by my Federal colleagues he was forced to bring on the land titles debate when in fact he knows perfectly well, as do I, that the Greens members in Canberra have as much power in the Federal lower House -

Point of Order

Hon PETER FOSS: The member is introducing debatable matter, rather than making a personal explanation.

Hon Mark Nevill: You are the biggest offender in the House.

The PRESIDENT: Order! I will make the decisions. The member is in quite a difficult situation. He feels he has been misrepresented and he wants to make an explanation to this House which will convince members of that. It is difficult to do that without raising debatable matter. Unfortunately for the member that is what he must do. I have always found in the past that the member who does that the quickest, gets into the least trouble.

Personal Explanation Resumed

Hon J.A. SCOTT: At question time, it was suggested that the Federal Greens senators - for some reason I am supposed to be in collusion with them - forced this Government to push a Bill through the House without allowing members proper scrutiny. The words of my Federal colleagues show there is no truth in that. In fact those words will show that Senator Chamarette was trying very hard to get rational debate, not just here, but in the Federal Parliament. Her words, quoted in today's *The Australian Financial Review* -

Hon E.J. Charlton: What does this have to do with what Hon George Cash said?

Hon J.A. SCOTT: It is in relation to what Hon George Cash said at question time.

Hon E.J. Charlton: It was what he said then.

Hon J.A. SCOTT: During question time Hon George Cash also misrepresented the situation - there were two misrepresentations. Senator Chamarette said -

All I am announcing is that I don't believe it should be rushed and I don't think it should be rushed out of fear.

And I think the best way of dealing with the backlash is allowing people who want to view the legislation in a positive way to be able to support it positively -

If they wish. To continue -

- not as a weapon against any potential backlash.

Those are not the words of someone trying to prevent this Government, or any other, from making legislation.

Hon George Cash: For whom are you apologising - Senator Chamarette or yourself?

The PRESIDENT: Order! The Minister for Transport, the Leader of the House, the acting Leader of the Opposition -

Hon George Cash: Hon Mark Nevill.

The PRESIDENT: And five others. If I name you all, we will all go home because we will not have a quorum.

Opposition members: Hear, hear!

The PRESIDENT: I want Hon Jim Scott to very quickly get to the point of the leave given to him under Standing Order No 87 and make his personal explanation about where he was misrepresented. He is talking about something that someone did in the Federal Parliament which has absolutely nothing to do with misrepresenting him - the purpose for which he got the leave. I cannot make his speech for him, however, I am suggesting he very quickly get to the point of the matter about which he has been misrepresented.

Hon J.A. SCOTT: I have been linked with actions of other people and those actions have

been called treachery to the people of Western Australia by Hon George Cash. The actions were none of mine. I was accused by Hon George Cash of not showing him and other people a personal fax. It was my right not to do that and there was no act of treachery in it. It was not a fax I sent out, nor one I knew about until I received it.

My power in this House is very limited because the House operates on the numbers and the arguments mean very little. Therefore, any treachery would not go very far. I and the two Federal senators have very limited power. Two people cannot make the Federal Government stop this State from putting through its legislation because the Greens (WA) Party has no members in the lower House of the Federal Parliament. Therefore, it is a gross exaggeration to talk about treachery when what I would like, and what most rational people would like, is a rational, open debate about this matter without pressures being placed on us by people pretending that the Federal Government will override this State and prevent it from going about its legislative business. I certainly have had nothing to do with any program to stop the State from doing what it will. I am a member of this State Parliament. I sometimes wish that I could take part more fully in debates in this House. However, I have no idea about creating any sort of treachery whatsoever. I suggest that Hon George Cash get back to reality and allow scrutiny of the legislation instead of trying to blame me, a single member of this Chamber, for causing him to panic. I think that is total nonsense.

The PRESIDENT: Order! The member is straying from the point. If there is a suggestion that the member participated in an act of treachery, there is a different procedure that he should follow to get that out of the way. He should have asked the member to withdraw it. It is too late to do that now, but that is the action he should have taken. If he had taken that action I would have insisted that the member withdraw. He is now getting back to the debate on the merits or otherwise of a piece of legislation. He cannot do that. I remind him and other members of Standing Order No 87, which states -

A member who has spoken to a question may again be heard to explain himself in regard to some material part of his speech which has been misquoted or misunderstood, but shall not introduce any new matter, or interrupt any Member in possession of the Chair, and no debatable matter shall be brought forward or debate arise upon such explanation.

The member has a very narrow area in which to manoeuvre. He could solve his problem by saying that anything that he said in his speech could not be construed as being treacherous if that is the bit that is worrying him.

Hon J.A. SCOTT: Thank you, Mr President. Unfortunately it was not something that I said that Hon George Cash was referring to; it was something that I did not do that he regarded as treacherous. Therefore, it was a little difficult for me to debate something that I did not do and it made it very difficult for me to respond when I was waiting to speak on another matter following Hon George Cash. My normal avenue for responding was cut off by the gag.

STATEMENT - BY HON JOHN HALDEN

Federal Native Title Bill

HON JOHN HALDEN (South Metropolitan) [8.46 pm] - by leave: The Leader of the House made the point earlier that the whole procedure we went through yesterday and earlier today was, in his words, "to protect the State from the evils of the Federal Government and from the Greens and Labor Party in the Senate". The Federal Government's Mabo legislation has passed through the House of Representatives and been transmitted to the Senate and the Senate has referred it to the Standing Committee on Constitutional and Legal Affairs. That committee, as I understand it, will be holding public hearings and will not report back to the Senate until 9 December.

If the Bill does not go back to the Senate until 9 December, I ask the Leader of the House and Government members to bear in mind the difficult situation they have placed us in by giving us no notice yesterday that the Land (Titles and Traditional Usage) Bill would be debated, and adjourn the Bill until next week so the Opposition can have some time to

prepare for the Committee stage of the Bill. The Federal Bill will not become a legal reality until at least 9 December - it will probably take a further week to pass through the Senate - and I think it would be fair, following yesterday's and today's unfortunate events - I think that is probably the most unemotional way to express it - to give the Opposition some opportunity to review the Bill clause by clause. I think there is other legislation that the Government might want to handle.

Hon George Cash: When we clear the procedural motions that will no doubt be raised with regard to getting our Bill into the Committee stage tonight, I will be happy to adjourn the debate and deal with whatever legislation has to be dealt with.

Hon JOHN HALDEN: I think we have agreed to deal with two pieces of business.

Hon George Cash: I am not sure about the two. However, I will not waste all next week on procedural motions. When we go into Committee, there will be one speaker on the short title and then the debate will be adjourned. We will then deal with the other things we have agreed to. I cannot be fairer than that.

Hon JOHN HALDEN: The Opposition believes that the Land (Titles and Traditional Usage) Bill should be open to consultation as is the Federal Bill.

Hon George Cash: You move your procedural motions and we will dispose of them tonight. As soon as we do that we can get into Committee, have a speaker on the short title, adjourn it and do the other things we have agreed to do, although I am not sure what we have agreed to do now.

Hon JOHN HALDEN: On the basis of that, I thank the House for the opportunity of making this statement. The Opposition is not attempting to filibuster. It believes, as the Federal Government and the Senate believes, that this process should be open to community consultation.

MOTION - STANDING ORDERS SUSPENSION

Committee Stage - Lands (Titles and Traditional Usage) Bill

HON A.J.G. MacTIERNAN (East Metropolitan) [8.50 pm]: I move -

That so much of the standing orders be suspended as is necessary to enable me to move the following motion -

That there be an instruction to the Committee of the Whole House on the Land (Titles and Traditional Usage) Bill that -

It have the power in the course of its proceedings to summon to the Bar by its own resolution any person to answer any questions in relation to the Bill that may be put, and those persons to remain in attendance until discharged by the Committee.

It is the intention of the Government, as announced by Hon George Cash, to move to the Committee stage of the Bill this evening. Therefore, it is important that if we are to have such an instruction we make a determination this evening in regard to this motion. I want this Chamber, as the Committee of the Whole, to take advantage of the extraordinary opportunity to be briefed on specific provisions of the legislation by some of the leading experts in the field.

Hon Peter Foss interjected.

Hon A.J.G. MacTIERNAN: Perfect Peter the pontificator gives us some advice.

Hon P.H. Lockyer interjected.

Hon A.J.G. MacTIERNAN: It is forward defence, honourable Phil. We have on stand-by a barrister and Jesuit priest, Frank Brennan -

Hon E.J. Charlton: Is he a social justice man?

Hon A.J.G. MacTIERNAN: Absolutely.

Hon E.J. Charlton: He will be a big help.

Hon A.J.G. MacTIERNAN: He certainly will be. He has worked with Aboriginal communities around Australia for many years. He has a great deal of credibility.

Hon P.H. Lockyer: This is not helping your argument.

Hon A.J.G. MacTIERNAN: He has a great deal of credibility with Aboriginal organisations.

Several members interjected.

The PRESIDENT: Order!

Hon A.J.G. MacTIERNAN: It is farcical that so many members opposite parade Christianity as a badge, yet when people with profound Christian commitments speak, such as Neville Watson and Frank Brennan, they tend to be ignored; this Christianity seems to be somewhat of a thin veneer. Frank Brennan has made himself available. He is a barrister with a fine analytical mind and he is the author of numerous publications on land rights issues and the Mabo decision and its consequences. Also, the lawyer Greg MacIntyre has indicated that he is prepared to assist this Chamber.

Hon P.R. Lightfoot: He works from the Aboriginal Legal Service. What sort of brief would you get from him?

The PRESIDENT: Order!

Hon A.J.G. MacTIERNAN: It will be broader than that from Hon Ross Lightfoot's mates in the mining industry.

Hon Kim Chance: They are educated people. Hon Ross Lightfoot would not have met many of them.

The PRESIDENT: Order! It appears that the early goodwill which seemed to prevail has dissipated. I will not ask honourable members to cease interjecting again. I will ensure that the member is heard in silence and that we get on with the business of the House. I ask all members to stop interjecting before I become fair dinkum with the next interjection.

Hon A.J.G. MacTIERNAN: Thank you, Mr President. Certainly, Mr MacIntyre was instructing some ALS people, and he is a successful solicitor as he was successful in a landmark case. He has great insight into the issues surrounding the Mabo decision, land rights and native title. Also, senior Professor Richard Bartlett, of the University of Western Australia Law School, will make himself available. He is an international expert on native title and has been involved in land claims in Australia and throughout North America. We would also like to call Colin Howard, who is the Government's constitutional law expert.

Hon P.R. Lightfoot: One of them.

Hon A.J.G. MacTIERNAN: The Opposition has deep concern about the compliance of the Bill with the Federal Racial Discrimination Act. This important issue must be explored carefully because a High Court challenge will inevitably follow the passage of this legislation. This would be destabilising for the Western Australian economy, particularly the mining sector. We should make every endeavour as a House of Review to ensure that the chances of such challenges are minimised. Of course, members may benefit in other areas from expert advice. For example, it would be desirable for the Committee to explore how the legislation may have a negative impact on mining companies as a result of a separate State title regime. This impact should be minimised given that mining activity transcends the State boundaries. Mining companies, particularly those involved in exploration, move across State boundaries, and under the State Government's proposal will be faced with a plethora of competing jurisdictions.

I should not need to remind the House of the centrality of its review function. Unfortunately, the conduct of the Government in this House in recent weeks suggests that members need to have that role presented to them forcibly. No end of learned works can be cited in support of our contention; namely, that the most important function of this House is to carefully review legislation coming before it from the Legislative Assembly.

I now refer to Ralph Gore's analysis of the performance of the Western Australian Legislative Council from 1890 to 1970. Incidentally, he had a lot of interesting things to say about the age of Legislative Councillors. Anyway, his analysis states -

The positive contribution that the Council has made to the Statute Book in Western Australia depended often upon how much time Governments gave the Council to debate the material and whether they did themselves take notice of bills the Council initiated. There exists numerous protests by Council members that legislation was too often passed on to them late in the session giving little time for debate and scrutiny.

We have debated such matters during the last few weeks, and we have received an undertaking from the Minister that the legislation will be given further time and deferred until next week - we were pleased to hear that. However, it is important that as well as having proper time to debate this legislation, we ensure that the deliberations are properly informed. One may describe the motion as supporting quality time. We are calling for the substantive resolution, if we are successful in suspending standing orders, to enable the Committee of the Whole to call upon various eminent persons. I referred to some of these people earlier, although we do not want to limit ourselves to those people only. This motion would enable the Committee of the Whole to have the flexibility to call upon people who would be in a position to clarify, explain and answer concerns in order that we could ensure that we were properly informed in making our decision about this legislation. We are not arguing that this would be an appropriate procedure for all legislation that comes before this House and all legislation that is to be dealt with by the Committee of the Whole, but this is truly exceptional legislation. It was introduced in response to a landmark High Court decision that provides, for the first time in 200 years, recognition of the historic reality of European occupation of this country. The Mabo decision and the various competing legislative responses, like the land rights debate in 1984-86 to which we often hear Hon Norman Moore refer - strangely, because I would have thought he would be a bit ashamed of that debate - have become very divisive in our community. They have divided Aboriginal from non-Aboriginal people.

The PRESIDENT: Order! The member is again getting away from the motion that she is supposed to be speaking about. You are now speaking about the second motion, the substantive motion. The motion now is to suspend standing orders, and that is what you should be talking about, not the Mabo Bill, or whatever you like to refer to it as. The question is that the House suspend standing orders. You have not mentioned the standing orders for a long time.

Hon A.J.G. MacTIERNAN: Mr President, it is somewhat difficult to sever the two issues because I suspect that one would need to have an appreciation of the importance of the substantive motion that would follow upon the suspension of standing orders in order to make a determination about whether to suspend standing orders.

The PRESIDENT: Order! You have already done that. You have made a very good case for that. Having done that, you are now going into the merits of the piece of legislation, and that is where you are running foul of where I believe you should be. You have submitted an argument that there are eminent people who could provide the Committee with certain information. It is not for me to say how you should develop your argument, but surely your argument about the merits of the legislation is a different matter altogether. I do not know that what you are doing now will influence anyone to suspend the standing orders. People will be voting on the wrong motion. They will be voting on whether they like your version of the merits of the legislation as distinct from whether they would like to help you to suspend standing orders. I am not in the debate. I am just getting a bit fidgety about people driving off on the wrong course.

Hon A.J.G. MacTIERNAN: Perhaps I have not made myself clear. I was not intending to speak on the merits of the legislation. I was saying that the substantive motion that will follow upon the suspension of standing orders is not one that should be a routine procedure of this House. I was simply seeking to point out what would differentiate the circumstances in this case, and I did not intend to pass comment on the legislation. The fact that this decision has been made, that certain campaigns have been mounted and that

there are two competing legislative packages has created a fair amount of divisiveness within the community. I am not saying which legislative response is the appropriate one. Those are the reasons that the House should in this case take the exceptional step of allowing the Committee of the Whole to call before it various expert evidence.

It has become evident to us over the last couple of months - I can anticipate the Government's response to this - that the Government is not all that keen to listen to the Opposition. We have managed to have a few commas inserted into the industrial relations legislation, but the Government has not been prepared to listen to any great extent to the points of view that we have put forward. However, we believe that the Government may be far more prepared to look at the evidence and at the material and to discuss issues with the expert persons whom we have described. I say also, not only from the Government's point of view but also from our point of view, that we would like to have the opportunity to test these provisions carefully against the advice and information that would be available from those persons. We are proposing that a broad range of experts advise us. While Hon George Cash and one or two of his ministerial colleagues may have a fairly good acquaintance with this legislation, even they, I think, would benefit from some further legal analysis of it. I am sure that the backbench members would gain an erudition from having the opportunity within the Committee of the Whole to examine these issues in considerable detail. We are now not talking about a situation where there is any great panic about time. We believe this would be the appropriate way to go, bearing in mind the extreme importance of this legislation to Western Australia.

HON GEORGE CASH (North Metropolitan - Leader of the House) [9.07 pm]: The Government is not prepared to support the motion to suspend standing orders for the reasons set out by Hon Alannah MacTiernan. I mentioned earlier that this Bill has been the subject of intense scrutiny, both legal and otherwise.

Hon John Halden: It sure was not in the Legislative Assembly!

Hon GEORGE CASH: I have explained carefully and clearly that this Bill has been the subject of intense investigation and advice over a long time, and it has involved consultation with various groups within the community. The Government has received legal advice from both within and outside the State about the validity of the Bill to withstand a constitutional challenge in the High Court. In general terms, the Government is satisfied that the legislation now before the House is the legislation that should be enacted into law. I should mention also, for the information of members, that this motion to suspend standing orders is brought under Standing Order No 461 and will require an absolute majority of the House, not a simple majority. I briefly took the opportunity of canvassing the views of members on this side while Hon Alannah MacTiernan was speaking and, based on the comments that were made to me, I do not think there will be an absolute majority if this motion is supported just by members opposite. However, that can be determined in due course. I say again: The Government is not prepared to entertain the suspension of standing orders and, rather than waste any more time on this question I suggest that it be put to the vote.

House to Divide

Hon GEORGE CASH: I move -

That the Council do now divide.

Division

Question put and a division taken with the following result -

Ayes (16)

Hon George Cash
Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans
Hon Peter Foss

Hon Barry House
Hon P.R. Lightfoot
Hon P.H. Lockyer
Hon Murray Montgomery
Hon M.D. Nixon
Hon R.G. Pike

Hon B.M. Scott
Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Noes (13)

Hon T.G. Butler
 Hon Kim Chance
 Hon J.A. Cowdell
 Hon Cheryl Davenport
 Hon N.D. Griffiths

Hon John Halden
 Hon A.J.G. MacTiernan
 Hon Mark Nevill
 Hon Sam Piantadosi
 Hon J.A. Scott

Hon Bob Thomas
 Hon Doug Wenn
 Hon Tom Helm (*Teller*)

Question thus passed.

Motion

Question put and a division taken with the following result -

Ayes (13)

Hon T.G. Butler
 Hon Kim Chance
 Hon J.A. Cowdell
 Hon Cheryl Davenport
 Hon N.D. Griffiths

Hon John Halden
 Hon A.J.G. MacTiernan
 Hon Mark Nevill
 Hon Sam Piantadosi
 Hon J.A. Scott

Hon Bob Thomas
 Hon Doug Wenn
 Hon Tom Helm (*Teller*)

Noes (16)

Hon George Cash
 Hon E.J. Charlton
 Hon M.J. Criddle
 Hon B.K. Donaldson
 Hon Max Evans
 Hon Peter Foss

Hon Barry House
 Hon P.R. Lightfoot
 Hon P.H. Lockyer
 Hon Murray Montgomery
 Hon M.D. Nixon
 Hon R.G. Pike

Hon B.M. Scott
 Hon W.N. Stretch
 Hon Derrick Tomlinson
 Hon Muriel Patterson (*Teller*)

Question thus negated.

LAND (TITLES AND TRADITIONAL USAGE) BILL*Committee*

The Chairman of Committees (Hon Barry House) in the Chair; Hon George Cash (Leader of the House) in charge of the Bill.

Clause 1: Short title -

Hon BOB THOMAS: The central aim of this Bill is to remove native title, the title which was identified by the High Court of Australia in June last year as being held by certain Aboriginal people who have maintained a traditional affiliation with their land where that land is vacant Crown land. The State Government has presented this legislation because it believes that those people, by holding that native title, pose a threat to the interests of the State.

At page 6 of the second reading speech the Minister says -

If the Commonwealth proposals are introduced into Western Australia, the rules imposed and the consequent delays will resemble those experienced by the Northern Territory over the past 17 years. Growth will be slowed dramatically, and the State's main economic engines, the mining, petroleum, pastoral and agricultural industries, will be steadily weakened by a flight of capital out of Western Australia. This will diminish what the Government can do for both Aboriginal and non-Aboriginal people. The economic and social costs of this are unacceptable.

Quite clearly, the State Government is saying that, by holding that native title, those people pose an economic threat to this State. We all know that the mining and petroleum industries are the major industries in the Western Australian economy and that through not only their direct economic activity but also their indirect economic activity, they present most of the employment opportunities in Western Australia. I disagree with the proposal put forward by the State Government. If we consider the way the share price index has reacted over the past 12 months we get an indication of how industry and

investors in Western Australia have viewed the High Court decision of June last year. Share prices reflect the value people are prepared to pay for a share and, as such, reflect the value they think those shares hold in the current economic climate. The bottom line is that they reflect the profit the buyer thinks he will be able to make from those shares and the profit that will be made by those companies. There is an integral relationship between the value of shares and the production of a company, the leases held by the company, and assets and a range of other issues which contribute to the profit made by that company. I refer to the price movements of shares since June last year which have all been positive and upwards. The all ordinaries index has risen from 1 678 to 2 009 - an increase of 19.8 per cent since June last year; the all mining index has moved from 712 to 862 - a 21 per cent increase; the gold index has moved even more significantly, from 1 079 to 2 121 - a 96.7 per cent increase; the all resources index has moved from 969 to 1 172 - a 21 per cent increase; and the 50 leaders index has increased from 1 668 to 1 898 - a 13.8 per cent increase.

The Mabo decision has been around since June last year. People have been talking about its adverse economic impact. A major debate has taken place here in Western Australia, particularly around June and July of this year when the Premier talked up the issue. In my view he was trying to increase his personal popularity and the standing of the Government by using the Mabo issue. As a result he has run many very negative lines about Mabo. People here will remember the media articles and the Premier carting around a map showing huge areas of Western Australia which could be claimed. He said 80 per cent of Western Australia could be claimed.

Hon Peter Foss: It cannot.

Hon BOB THOMAS: It cannot and Hon Peter Foss knows that.

Hon John Halden: Don't forget your backyard!

Hon BOB THOMAS: That statement by the Premier incited a couple of Aboriginal groups to lodge ambit claims. With all this negative publicity one would think one of the main indicators of economic activity of investment and the value of production in this State would have decreased. However, all the share price indexes have increased significantly, especially the gold price index which has increased by 96.7 per cent. I reject the notion that the Mabo decision will have an adverse impact on this State's economy. I also reject the main thrust of this Bill, which is to extinguish native title and replace it with the rights of traditional usage. I do not support this clause.

Hon GEORGE CASH: Hon Bob Thomas rejects the clause and, indeed, I guess the Bill on the grounds he believes there will not be any significant adverse impact on the economy if it becomes the law. I am a little unsure of which way he was driving. If this Bill becomes the law in Western Australia, we believe, with security of title, it will strengthen the position of companies and others. It will have a very positive effect on the business community. If, however, this Bill does not become law and the Federal Government's Native Title Bill becomes law, I can almost guarantee there will be an adverse economic effect on this State. Hon Bob Thomas shakes his head indicating he does not agree with that view. I guess the best thing I can do at the moment is say to him we clearly disagree.

Hon Bob Thomas: Why do mining companies still prefer to deal in the United States and Canada ahead of Australia even though those countries have their own native title legislation?

Hon GEORGE CASH: One of the reasons - there are many - is the uncertainty of title in Australia. The High Court decision on Mabo has caused companies to invest their exploration funds overseas. Again Hon Bob Thomas does not seem to appreciate that answer. The facts are there, regardless of whether he likes them. I can only recognise that Hon Bob Thomas will probably not support this clause and, in due course, will not even vote for the Bill.

Progress

Progress reported and leave given to sit again, on motion by Hon George Cash (Leader of the House).

PUBLIC AUTHORITIES (CONTRIBUTIONS) AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [9.30 pm]: I move -

That the Bill be now read a second time.

The purpose of the Bill is to increase the statutory corporation levy on the State Energy Commission, the Water Authority and the Bunbury and Busselton Water Boards from four per cent to five per cent. Under the Public Authorities (Contributions) Act, all of these agencies, and the Fremantle Port Authority, are required to pay annually to the consolidated fund a levy based on their total revenue earned in the preceding financial year. The Fremantle Port Authority is required to pay a levy of three per cent, while for the other agencies the levy is four per cent. The increase in the levy to five per cent is estimated to raise an additional \$21m for the consolidated fund in 1993-94.

The increase is considered to be justified on the basis of improving the Government's return from these enterprises. Currently, none of the agencies pays a dividend or amounts in lieu of Commonwealth taxes to the consolidated fund. Furthermore, Commonwealth Grants Commission assessments indicate below average revenue raising efforts by Western Australia in this area. The increase will also help address the current low growth in consolidated fund revenues without resorting to increases in the State's narrowly based taxes. Importantly, the increase will not result in any consequential lift in charges to consumers by the agencies. The Fremantle Port Authority was excluded from the increase because it was considered that an increase in the levy would only aggravate its difficult financial position. The increase will apply to the 1993-94 consolidated fund contribution. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

House adjourned at 9.32 pm

QUESTIONS ON NOTICE

FREEDOM OF INFORMATION COORDINATOR - GOVERNMENT DEPARTMENTS AND AGENCIES

1237. Hon TOM STEPHENS to the Minister for Finance:

Would the Minister indicate who the designated officer is for each department or agency within the Minister's portfolio who has responsibility of coordinator in regard to applications under the Freedom of Information Act?

Hon MAX EVANS replied:

State Taxation Department - Executive Officer (Special Projects)
Valuer General's Office - Records Management Officer
Government Employees Superannuation Board - Policy Officer
State Government Insurance Commission - Administration Manager,
Finance and Administration Division
SGIO Insurance Limited - Corporate Solicitor
Office of Racing and Gaming - Manager, Information Systems
Lotteries Commission - Community Funding Program Officer
TAB - Manager, Human Resources

GOVERNMENT DEPARTMENTS AND AGENCIES - ASSET REGISTERS

1360. Hon TOM STEPHENS to the Minister for Education representing the Minister for the Environment:

Which departments or agencies within the Minister for Environment's portfolio areas do not maintain an asset register?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

All agencies in my portfolio areas maintain an asset register pursuant to the provisions of the Financial Administration and Audit Act and Treasurer's Instructions. The register for the Office of Catchment Management is maintained by the Waterways Commission, while the register for the Department of Aboriginal Sites is maintained by the Western Australian Museum.

GOVERNMENT DEPARTMENTS AND AGENCIES - IN-HOUSE PRINTING EQUIPMENT AND FACILITIES

1376. Hon TOM STEPHENS to the Minister for Education representing the Minister for the Environment:

Which departments and agencies within the Minister for the Environment's portfolio areas have in-house printing equipment and facilities?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

Apart from routine office equipment such as laser printers and the like, which most agencies have, only the EPA maintains an in-house printer for small, low quality work.

STATE GOVERNMENT INSURANCE COMMISSION - AUDITED REPORTS AND FINANCIAL STATEMENTS TABLING, DELAY

1391. Hon JOHN HALDEN to the Minister for Finance:

What is the reason for the delay in tabling the audited reports and financial statements for the State Government Insurance Commission for 1992-93?

Hon MAX EVANS replied:

Because the Auditor General has not completed the audit and is not required to do so until 30 November 1993.

**ENVIRONMENTAL PROTECTION AUTHORITY - ANNUAL REPORT,
PRINTER; COST**

1395. Hon N.D. GRIFFITHS to the Minister for Education representing the Minister for the Environment:

- (1) Who printed the Environmental Protection Authority's annual report for 1992-93?
- (2) What was the cost?
- (3) Why was glossy, non-environmentally friendly material used in the magazine?
- (4) If State Print was not used, why was it not used?
- (5) If it was not used, was it asked to tender?
- (6) If it was asked to tender, what price did it tender?
- (7) What price was tendered by the printer?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

- (1) Lamb Print.
- (2) Printing - \$3 650; reprint - \$1 500.*
*An additional charge was incurred by the authority making changes to the report after its printing.
- (3) This year's annual report was printed on environmentally friendly paper: Content pages - recycle 100-80 gsm which is 100 per cent recycled paper. Cover - artboard 260 gsm which is environmentally friendly paper, because it is chlorine free. To make the annual report more durable it was covered with a matt laminate.
- (4) The officer coordinating production of the annual report was unaware of the instruction by the previous Government in 1991 that State Print was to be asked to tender for any jobs over \$2 000. I understand this position has now been clarified with the officers concerned.
- (5) No.
- (6) Not applicable.
- (7) Lamb Print, \$3 650.

**STATE GOVERNMENT INSURANCE COMMISSION - ANNUAL REPORT
AND FINANCIAL STATEMENTS TABLING, DELAY**

1397. Hon JOHN HALDEN to the Minister for Finance:

Can the Minister indicate why there has been a delay in tabling the report and financial statements of the State Government Insurance Commission?

Hon MAX EVANS replied:

I refer Hon John Halden to question on notice 1391.

QUESTIONS WITHOUT NOTICE

STATE GOVERNMENT INSURANCE COMMISSION - FINANCIAL STATEMENTS, AUDITOR GENERAL'S AUDIT

820. Hon JOHN HALDEN to the Minister for Finance:

I refer the Minister to question without notice 775 in which I asked -

Is it correct that 30 November is the last date by which the Auditor General will be able to give his opinion on the financial statement for the State Government Insurance Commission for the period 1992-93?

To which the Minister replied in part -

I have been advised by the Auditor General that it is his opinion that he has longer than 30 November 1993 in which to complete his audit.

I also refer the Minister to question on notice 1391 in which I asked -

What is the reason for the delay in tabling the audit report for the financial statements for the SGIC for 1992-93?

To which the Minister replied -

Because the Auditor General has not completed the audit and is not required to do so until 30 November 1993.

Will the Minister explain the inconsistency in the two answers and whether they were supplied by the Auditor General?

Hon MAX EVANS replied:

The answer to question without notice 775 is correct. It does not have to be signed by him until months later. They have been signed as long as 12 months later. Perhaps the error was in my choice of words. However, they can be certified after 30 November. There is no restriction. If he does not sign it by 30 November, he issues an interim opinion. A schedule is issued twice a month which contains interim and final opinions. An interim opinion is issued when an extension has been granted and a final opinion is one which has been signed. Sometimes for various reasons they are signed up to 12 months later.

The PRESIDENT: Order! I remind members that we are developing some very bad habits or we are perfecting some very bad habits that have been developed already. My recollection of the question is that it contained an inference that somebody else had provided the answer to one of the questions. I remind members that no-one other than a Minister answers questions in this place. I think it is wrong for a Minister representing another Minister to say that the Minister gave him the reply. I certainly do not go along with a Minister saying that the head of his department or the Auditor General or the man outside Hoyts gave him the answer. It does not matter who supplies the answer to the Minister, it is the Minister's reply to the question. I want that understood because if I do not intervene now and again we perpetuate things and, before we know it, we will not know who questions are being asked of or who is responsible for the answer.

TRANSPERTH - REDUNDANCY PACKAGES

821. Hon JOHN HALDEN to the Minister for Transport:

What is the anticipated cost of the redundancy severance package for Transperth employees announced by the Minister for Transport on Friday of last week?

Hon E.J. CHARLTON replied:

The cost has not been assessed. It was announced last week to indicate to the employees of Transperth the numbers involved. That is now being further progressed and will be announced at a later time.

TRANSPERTH - REDUNDANCY PACKAGES

822. Hon JOHN HALDEN to the Minister for Transport:

What number of Transperth employees is the Government hoping will accept the redundancy severance package announced on Friday?

Hon E.J. CHARLTON replied:

It is not a matter of what the Government hopes the number will be. Transperth has assessed the number of employees by which it needs to reduce its operations to achieve the efficiencies required for it to be successful when the tendering process begins for the various segments of the public transport operations in the metropolitan area.

TRANSPORT STRIKE - LATEST INFORMATION

823. Hon MURRAY MONTGOMERY to the Minister for Transport:

What is the latest information the Minister has on the transport strike in this State?

Hon E.J. CHARLTON replied:

The member discussed this matter with me earlier. Negotiations between the union and the transport industry have been taking place this morning and an offer has been made to settle the issue. However, I understand a meeting of the Transport Workers Union will not take place until tomorrow. While that might be acceptable to both the union and the industry, it is certainly not acceptable to the people whose produce will be destroyed as a consequence of its lying on the back of a truck or at some depot around the State.

I have spoken to other members today in an attempt to overcome this impasse. I think it is ludicrous and an indictment of the system, regardless of the issue, to subject innocent people to extreme financial loss. On too many occasions there is too much narrow-mindedness in our community with people thinking only of themselves and not of the people their actions are affecting. I hope this matter can be resolved and I hope that Opposition and Government members will cooperate with the people in my office who have been trying to convince these people who are responsible for holding up the movement of these perishables to resolve the issue. Not only will the goods miss the boat, so to speak, but when the ship goes, as some of them will today, that produce will not be able to go tomorrow when the strike is over. It will remain sitting there and will obviously be of no value. I hope that this situation can be resolved. I look forward to other members who have indicated their support trying to resolve the issue.

**TRANSPERTH - METROPOLITAN BUS TRANSPORT SYSTEM,
PERCENTAGE PRIVATISED**

824. Hon JOHN HALDEN to the Minister for Transport:

Based on the Government's new proposed metropolitan bus transport system, what percentage of Transperth's current services is likely to go to private enterprise?

Hon E.J. CHARLTON replied:

The Government has no idea of what that is likely to be. There is nothing preconceived about this situation. It is important in all of this to ensure

that the services available to the public are not only maintained but also improved and at the cheapest price possible. It is the department's intention, therefore, as was stated in the correspondence put out by Transperth, to obtain efficiencies now so that it has a chance to gain 100 per cent of the tenders when they are called. The Government has agreed to give Transperth every opportunity to put itself in the position to achieve that. That is why the time for the calling of the tenders has been put in that sequence; it will enable Transperth to have every opportunity to gain those efficiencies

TRANSPERTH - PRIVATE OPERATORS, GOVERNMENT SUBSIDY

825. Hon JOHN HALDEN to the Minister for Transport:

Will the Government be subsidising private operators who successfully tender for Transperth routes?

Hon E.J. CHARLTON replied:

That is a very important question. There is a lot of supposition in some people's interpretation of the Government's decision to call tenders. As part of the tender, the tenderers will have to submit a price to carry out the function and to provide the service. This is not about privatising Transperth, as some other people have interpreted it. It is not about bus operators having to depend totally on the fares that they receive as a consequence of the tender. A subsidy for a private operator could well be considered in the same way as Transperth is subsidised. However, tenders will provide the opportunity for the operator to indicate the tender price. If the fares are worth X dollars and the tender price submitted by all the tenderers to provide that service is about what the fare income will be, obviously the Government will make up the difference to enable that service to be carried on.

SEXUALLY TRANSMISSIBLE DISEASES - MURRAY STREET CLINIC CLOSURE

826. Hon KIM CHANCE to the Minister for Health:

I refer the Minister to an article in today's *The West Australian* regarding the closure of the sexually transmitted disease clinic in Murray Street. Is the Minister concerned that the closure of the clinic will force clients, both current and future, to -

- (a) pay a considerable fee out of their own pocket; and,
- (b) result in the non-attendance of people with STDs because of problems with either cost or confidentiality?

I note that the clinic has some 20 000 clients per year.

Hon PETER FOSS replied:

No. It is probably the single most sensible move made by a Government with regard to sexually transmitted diseases in many a year. It is interesting to note that the move was recommended by the public health people in the Health Department in 1989-90 as the top of their top 10 public health initiatives. They were asked what were the top 10 public health initiatives that they would initiate if they could, and in each of the two years they put at the top that they should do something about STDs in the country and regional areas. Nothing was done.

We have recognised that regional areas, particularly places with a larger regional population, have 10 times the number of cases of STDs as does the city. They have not only 10 times the cases, but also one-tenth of the population. That provides an incidence which is 100 times greater than the incidence of STDs in the city area. Places like Kalgoorlie and areas in

the north of the State have the major public health issues that we have to deal with. One of those is drunkenness, unfortunately principally among the Aboriginal population. The groups of people which suffer from alcoholism also suffer from STDs transmitted through the promiscuity that goes with alcoholism. Therefore, it is, without doubt, one of the single most important measures with which we must deal.

With the closure of that clinic, we have been able to divert half of the money - \$750,000 - to address the problem, because the previous Government spent \$1.5m on venereal disease and the public detection of it in the city and none in the country. It was costing us \$15 000 per discovered case in the city. The other problem we found was that, of the 20 000 people who went to the STD clinic, 44 per cent of them had no STD because many of the people who went to the clinic were those people who actually had no reason to even think that they had an STD.

Hon Kim Chance: It is 56 per cent who had no STDs.

Hon PETER FOSS: I have not finished. Some of the reasons given by the people who went there were quite extraordinary. Some people thought they had STDs and they had not even had sex for 50 years. However, a survey of people who went to the clinic and of people who did not go to the clinic found that those people who were principally at risk - that is, gay men, sex workers and Aborigines - did not like going to the clinic for the obvious reason of privacy. The problem with the clinic is that it is in a major public street and is well-known as the STD clinic. A lot of people are reluctant to go to Murray Street and to be seen going into what is affectionately known as the "pox clinic".

We are substituting many more outlets for the clinic. Fremantle Hospital and Royal Perth Hospital will provide STD support, and that will enable the teaching and research aspect to be carried on. The AIDS Council, the Aboriginal Medical Service and many general practitioners throughout the metropolitan area will be asked to provide public STD support. That would mean that there could be something like 40 or 50 outlets. The access to these will be through an information and referral line so people will be able to find out confidentially via the telephone where to go, and they will have greater privacy. People going to the AIDS Council or to a private GP would not have the same stigma attached to them as they would turning up at the STD clinic. There is really one reason for people to go to an STD clinic; however, they could be attending one of the other places for a number of reasons. The people involved in this area - the people who minister to the ones who are at risk from STDs, the public health officials themselves, the people involved in public health - tell us it is one of the best moves to have been made and was long overdue.

It is important that we are at long last devoting funds to that area in which there is at least 100 times the incidence. In places like Kalgoorlie and so forth the risk is even greater because although the country region has only 10 per cent of the population of the metropolitan area, in areas such as Kalgoorlie the STD at-risk groups are extremely concentrated.

This is probably one of the best public health moves ever made in this State. It has been welcomed universally by everybody except the member for Kalgoorlie, who does not seem to be concerned about people in Kalgoorlie with STDs.

SEXUALLY TRANSMISSIBLE DISEASES - ABORIGINAL MEDICAL SERVICE

827. Hon KIM CHANCE to the Minister for Health:

Do we assume from the Minister's answer that the Aboriginal Medical

Service does not advise on and treat sexually transmitted disease cases in the country now in any case, and that this would have continued whether or not the Murray Street clinic had closed?

Hon PETER FOSS replied:

I think the member is misunderstanding the difference between generic health provision and specific health provision directed towards STDs. What we intend to do with the money is to make sure that we have specific STD support and detection through these particular ones. We will be giving extra support to those people.

Hon Kim Chance: What about the 11 200 confirmed cases who go to the clinic?

Hon PETER FOSS: Every single doctor has the possibility of clients coming to them with concerns that they have STDs. They do not have to go to the clinic. However, the important thing about it is that the STD clinic, notwithstanding that some people were going just because they had no alternative, will now have a major alternative. It is the difference between having, for instance, one huge Myer store in the middle of the city and having many Myer stores throughout all the suburbs. All the opportunities are still there. People who wish to be referred for specific STD assistance can be through about 40 public outlets in Western Australia, at no cost and with no possibility of breach of confidentiality. In addition, the Government will be taking specific measures in the country directed specifically towards STDs; not generic health care, but specifically towards tackling a problem which we know is a very serious public health problem. I repeat that the public health officials in the Health Department twice identified it as the single most important initiative in public health that could be taken. The only reason it stopped putting that item on its list after 1990 was that the then Government had ignored it two years in a row, and the department thought it might as well start putting some things on its list which would get done.

GUILLOTINE MOTION - SENATE AND HOUSE OF REPRESENTATIVES

828. Hon P.R. LIGHTFOOT to the Leader of the House:

Is the Leader of the House aware of a guillotine motion being used for time management purposes in the Federal Senate and the Federal House of Representatives?

Several members interjected.

The PRESIDENT: Order! Order!

Hon ROSS LIGHTFOOT: Mr President, I believe that the comment made by the member opposite is completely out of order. I am entitled to ask questions and I ask that you direct him not to make statements like that in the future.

The PRESIDENT: Order! The comment was out of order and the member should know that.

Hon GEORGE CASH replied:

I did take the opportunity of seeking some advice on just how frequently both the Senate and the House of Representatives use the guillotine or time management procedures. It seems that the time management procedure was introduced into the Senate about 1926. It has been a part of that Chamber obviously for many years. My research to date indicates that in the past five years the House of Representatives, obviously under a Labor Government, has guillotined 549 Bills. I am told that 90 Bills have been guillotined in the House of Representatives so far this year. In respect of the Senate the information which has been passed to me indicates that 51 Bills were guillotined in 1987; 36 in 1988; 51 in 1990; 61

in 1992; and, none in 1993 to date. Quite clearly, it can be seen that time management is a part of parliamentary life, both in lower and upper Houses.

HEALTH CARE DIRECTIONS - ROLE

829. Hon DOUG WENN to the Minister for Health:

Can the Minister advise with reference to the ministerial technical advisory committee, established to advise the Minister on the Bunbury Regional Hospital, the role of an organisation called Health Care Directions which appears to be linked with this committee?

Hon PETER FOSS replied:

Health Care Directions is a consultancy firm based in Bunbury and headed by Mr Ian Gordon, a person experienced in health services management in Western Australia. Mr Gordon has been appointed for three months to assist the ministerial technical advisory committee in its deliberations and with its report to me by 28 February 1994. It would be appropriate to describe him as the legs of the committee. He is also a local source of expert help with management information.

MINING INCOME - PROPORTION FLOWING OUT OF WESTERN AUSTRALIA

830. Hon J.A. SCOTT to the Minister for Mines:

Without multipliers, what proportion of mining income flows out of this State through, for example, repatriated dividends, equipment and supply purchases, administration, foreign investment and wages to non-resident employees?

Hon GEORGE CASH replied:

The information requested on the proportion of mining income that flows out of this State is not available within my department.

MABO LEGISLATION - FEDERAL BILL, INFORMATION SOURCE

831. Hon A.J.G. MacTIERNAN to the Leader of the House:

I refer to the comments of the Leader of the House reported on radio this morning in which he claimed that the State Government was informed by a reliable source in Canberra that the Federal Government had decided to support the Greens (WA) Mabo Bill and that, conversely, the Keating Government intended to ram its own Bill through the Senate today despite not having the necessary majority. I refer also to Senator Christabel Chamarette's observation that the Court Government is either very badly informed or is being duplicitous in the way it is presenting the information about Canberra. I ask -

- (1) Who was the so-called reliable source who provided the false information to the Government?
- (2) Was the Parliamentary Secretary for Federal Affairs, Hon Bob Pike, involved in relaying this information?

Hon GEORGE CASH replied:

- (1) Advice was tendered to me last night which indicated that the Federal Government might be taking the unprecedented step with its Native Title Bill to ram it through the Senate.

Hon John Halden: The Senate will not sit until 6 December.

Hon GEORGE CASH: It will sit today.

Hon John Halden: I understand it will get up today and not sit until 6 December.

Hon GEORGE CASH: Yes, quite so. That was the advice tendered to me. One of the reasons substantiating the advice was that this is the last day the Senate will sit for a week or so. Also, I understood that the Native Title Bill was being dealt with by the House of Representatives at that stage, and there was a possibility that it could force the Bill through the House if that was the Government's desire.

The PRESIDENT: The Leader of the House has not answered Hon Alannah MacTiernan's question.

Hon GEORGE CASH: I was advised that the Greens (WA) senators from Western Australia were giving consideration to introducing a Bill that would have had the effect of not enabling the Parliament of Western Australia to enact its own legislation in respect of native title. Hon Alannah MacTiernan has asked me to name the sources of my information. I receive information and advice from all sorts of people every day in respect of the management of this House, the management of my portfolios, and all other areas in which people think I have an interest. I do not intend to disclose who gives me advice, when or what specific advice I may be given.

(2) I sought the advice of a number of members on this side of the House as to the general procedures that might be adopted after that earlier advice had been tendered to me. Hon Bob Pike was one of the people I approached.

SENATE - FEDERAL GOVERNMENT, NO MAJORITY

832. Hon A.J.G. MacTIERNAN to the Leader of the House:

Is the Leader of the House aware that the Federal Government does not have a majority in the Senate?

Hon GEORGE CASH replied:

Yes, I am aware that the Federal Government does not have a majority in the Senate. However, if the Labor Party were to make a deal behind closed doors with the Greens (WA), the Democrats and other minority groups in the Senate, it would unquestionably be able to ram any Bill through the Senate.

Hon A.J.G. MacTiernan: Even though the Greens have their own legislation?

Hon John Halden: You are in danger of being called Tinkerbell. This answer is not convincing.

Hon GEORGE CASH: It is quite clear that in the past the Labor Government in Canberra has done deals behind closed doors with the Greens and the Democrats. I was placed in a position where I had to make a decision about whether this Parliament should sit on its hands and, in so doing, risk the future of the State of Western Australia, or whether the Government should take some action. I decided to take that action and, accordingly, brought on the second reading of the Land (Titles and Traditional Usage) Bill.

In keeping with comments I made the other day to the acting Leader of the Opposition, I am more than happy to cooperate with the Opposition in respect of the business of this House to ensure there is an orderly flow. When there is a change of Leader of the Opposition in the next few days, as I understand the case to be, I think there will be improved relations between me, as manager of Government business on this side of the House, and the Leader of the Opposition, who traditionally carries that responsibility on behalf of the Opposition. It is quite clear that the State Opposition is more than happy to hand power over to the centralist Government in Canberra but I, for one, do not support that view.

**SERVICE INDUSTRIES - STUBBS TERRACE, SUBIACO RAILWAY STATION,
RELOCATION**

833. Hon SAM PIANTADOSI to the Minister for Transport:

- (1) Is the Government planning to relocate the service industries in Stubbs Terrace adjacent to the Nicholson Road subway and the service industries located adjacent to the Subiaco railway station?
- (2) If so, what are these plans?
- (3) What security of tenure can these businesses expect?

Hon E.J. CHARLTON replied:

(1)-(3)

I ask the member to put that question on notice.

LAND (TITLES AND TRADITIONAL USAGE) BILL - ADDITIONAL TIME

834. Hon JOHN HALDEN to the Leader of the House:

The Leader of the House last night advised us that if the circumstances with regard to the Land (Titles and Traditional Usage) Bill changed, he would withdraw the urgency of the procedures to allow the Opposition more time to consider the Bill. As it is clear the circumstances have changed, will the Minister now allow the Opposition additional time of one week to consider the remainder of this Bill?

Hon GEORGE CASH replied:

Quite clearly, with all the claims being made by the State Opposition last night in this House with regard to certain advice that indicated the Federal Government would not ram Bills through the Parliament, and notwithstanding that advice, and based on having been in this place just a few years -

Hon John Halden: Is it going to be another Tinkerbelle answer?

Hon GEORGE CASH: I decided it would be very unwise last night to abandon the second reading of that Bill. However, I did say to the Opposition that if it could be demonstrated that the Federal Government would not proceed to ram Bills through the Senate, I could reconsider the matter. I understand that the Senate will not rise until at least 10.30 tonight - about 7.30 pm our time. My plan of action at the moment is to allow the Committee stage of that Bill to continue. There will be an opportunity on the short title clause for members to again present their views on the Bill. I do not intend that time management shall take effect on that Bill today and, should members be interested, I hope the House will adjourn around 11 o'clock tonight. There will be no pressure on the Opposition to complete the Committee stage of this Bill, and they will have an opportunity to keep talking on the matter.

WESTRAIL - BUNBURY, BLAIR STREET RAIL RESERVE LAND
Prosser Organisation, Expression of Interest

835. Hon DOUG WENN to the Minister for Transport:

I refer to questions I asked the Minister yesterday about the rail reserve land in Bunbury. Can the Minister advise when the expression of interest was put forward by the Prosser organisation?

Hon E.J. CHARLTON replied:

It was on Tuesday. I was doing other things yesterday and, although I had intended to call in on the way home last night, I thought that would not be necessary. I am not sure whether that expression of interest was recorded. As I intimated the other day, Westrail had received that expression of interest but no action had been taken to formulate it.

Hon Doug Wenn: When did it receive it?

Hon E.J. CHARLTON: I am not sure of the date, but I will certainly get that information for the member.

MABO LEGISLATION - PRIME MINISTER'S OFFICE PRESS STATEMENT

836. Hon JOHN HALDEN to the Leader of the House:

Is the Leader of the House aware that at 4.00 pm Canberra time yesterday, the Prime Minister's office issued a press statement advising those Press outlets that received the statement that the Government had no intention of supporting the Greens (WA) legislation in the Senate?

Hon GEORGE CASH replied:

No, I am not on the Prime Minister's mailing list. He does not shoot across messages to me, even from time to time, to let me know what he is doing. I have also learnt from experience that the word of the Prime Minister cannot be relied upon. Therefore, even if I had been sent a letter, fax or some other missive, there is a good chance that I would not have put too much credibility on that particular message.
