Legislative Council

Wednesday, 2 December 1992

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

STATEMENT - BY THE PRESIDENT

Letter From Official Corruption Commission

THE PRESIDENT (Hon Clive Griffiths): I have received the following letter from the Official Corruption Commission addressed to me and to Mr Speaker. The letter states -

> Dear Sirs
>
> **re: REPORT TO THE PARLIAMENT UNDER SECTION 7(6) OF THE OFFICIAL CORRUPTION COMMISSION ACT**
>
> It is possible that a report relating to a known person (who should at present remain nameless) will be submitted shortly to the Parliament under Section 7(6) of the Official Corruption Commission Act.
>
> It is a requirement of the Act that before such a report can be made, a person upon whom the report may reflect adversely must be given the right to be heard.
>
> Taking account of the delay which will be involved in following the proper procedures and of the need to inform the Parliament at the earliest possible time, it is apparent that should the Commission decide that a report is to be made, it cannot be submitted before the Parliament rises but should not be delayed until the next Parliamentary session in 1993.
>
> This is drawn to your attention so that you may consider whether it would be appropriate in the circumstances to issue an order for the report, should it be made, to be formally received and distributed during the recess.
>
> Yours faithfully
>
> D J ORR
> Executive Officer
> OFFICIAL CORRUPTION COMMISSION

When I received that letter, I discussed it with my office of the Clerk. It seems appropriate that under the circumstances it would be wise for me to suggest to the Leader of the House that he move a motion in the following terms -

> That, upon receipt of a report submitted to the President by the Official Corruption Commission where the House stands adjourned, whether to a date to be fixed by the President or to a date certain, the President shall publish that report which is deemed to have been tabled and ordered to be printed without further authority being required than that contained in this resolution.

HON J.M. BERINSON (North Metropolitan - Leader of the House) [2.35 pm]: I appreciate the recommendation. On the face of it the proposed motion is appropriate. However, given your advice, Mr President, that the letter from the Official Corruption Commission has also been drawn to the attention of the Legislative Assembly, I propose to deal with this matter at a later stage, either of the session today or tomorrow after consultation with the Premier.

PETITION - CRIME, KENWICK, POLICE INCREASE OR STATION REQUEST

Hon George Cash (Leader of the Opposition) presented a petition from 708 citizens of Western Australia requesting that the Legislative Council immediately address crime in Kenwick and requesting either a substantial increase in police activity in the area or the construction of a permanent police station.

[See paper No 658.]

SELECT COMMITTEE INTO WESTERN AUSTRALIAN POLICE SERVICE

Appointment

On motion, without notice, by Hon Reg Davies, resolved -

That the Select Committee on the police service comprise Hon Margaret McAleer, Hon John Halden and the mover.

SELECT COMMITTEE OF PRIVILEGE INTO EASTON PETITION

Final Report Tabling - Extension of Time

HON PETER FOSS (East Metropolitan) [2.38 pm]: I am directed to report that the Select Committee on Privilege concerning the Easton petition requests that the date fixed for the presentation of the committee's final report be extended from 3 December to no later than 15 December and, if the House do then stand adjourned, the committee deliver its report to the President who shall cause the same to be printed by authority of this order. I move, without notice -

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

Question put and passed.

[See paper No 659.]

Reason for Extension

HON PETER FOSS (East Metropolitan) [2.39 pm] - by leave: The motion refers to the date of 15 December but it is the hope of the committee that it will report prior to that date. However, the committee is mindful of the fact that the House will probably adjourn for some time and should a further extension be required it would not be able to obtain that extension. That is why that date has been suggested.

URGENCY MOTION - KENNETT GOVERNMENT INDUSTRIAL RELATIONS POLICY CONDEMNATION

WA Liberal Party Policy, Similarities

Debate resumed from 1 December.

HON DOUG WENN (South West) [2.41 pm]: This is my third attempt to complete my comments on this motion. I am six minutes into my speech before I am able to truly express my concerns about this motion rightfully put forward by Hon Tom Helm. Every day we open our newspapers and read that Kennett is doing his utmost to butcher everything.

Point of Order

Hon D.J. WORDSWORTH: Is it possible for the motion to be put into action because it calls for the House to adjourn until a date that has already passed?

The PRESIDENT: There is no point of order. That particular facility is only a vehicle for providing an opportunity to speak on a matter of urgency. The fact that the date has passed is a product of the way we do things in this place now. It is only in recent times that urgency motions have been adjourned and if the House does silly things, it gets silly results.

Debate Resumed

Hon DOUG WENN: If it would help the honourable member, I would be quite happy to move an amendment to the motion to the effect that this House adjourn indefinitely. I can assure him that at the end of the debate at the point at which under our normal procedure the member withdraws the motion, I would be happy not to withdraw the amendment I have suggested. That is another side of the debate which can perhaps be held at a later time. I have a feeling deep down that it may happen not too far in the future.

My objective is to outline to the House and the people of Western Australia the compatibility of the industrial relations policy of the Liberal Party with that in New Zealand. I have twice been to New Zealand and had deep discussions with people in that country about how its industrial relations policy is affecting them dramatically, irrespective of what the Press may suggest and irrespective of the stories that members on the other side of the House tell the

people of Western Australia. Yesterday I made the point when Hon Norman Moore had a shot at me that I know what is going on better than he does. I have read the Liberal Party policy document which indicates that in some ways I do know more about what is going on than he does, and I suggest that he has not read that policy document. In fact, the national agenda set by the Opposition has come to fruition and Kennett is proving that - madman that he is - in many ways. Yesterday I read some statements from page 5 of the industrial policy document of the Liberal Party.

Hon George Cash: Federal or State?

Hon DOUG WENN: If there is one thing that looks as though it will happen, and that has happened in the six minutes I have spoken in this debate, it is that the Opposition will interject and try to stop me from saying what I want to say. I can assure members opposite that they will not stop me because I will not let them do so, regardless of Hon George Cash's attempt to interfere. I am concerned about one point outlined in the national agenda, at page 6, clause 2, which states that drafting of legislation to give effect to the policy is well advanced; as a result the next coalition Government will be able to present legislation to the first sitting of the new Parliament to implement the industrial relations reform. God help us if they do.

Hon N.F. Moore: What policy is it?

Hon DOUG WENN: It is Liberal Party policy dated 20 October 1992.

Hon N.F. Moore: Federal or State?

Hon DOUG WENN: Nowhere does it say what the reform will be.

Hon George Cash: Federal or State?

Hon DOUG WENN: It is the State Liberal Party policy.

The PRESIDENT: Order! I include the people who are holding private meetings in the Chamber. I do not know how any times I must say in this place - and I must sound like a cracked gramophone record because I say it over and over again - that members do not have to like or believe what people say, but they must listen to them. Hon Doug Wenn has the floor and he is entitled to be heard in silence. I remind him that he should not direct his comments to any of the members in this Chamber but should direct them to me. I can assure him that I will not interject.

Hon DOUG WENN: You, Mr President, are dead right. As one who has been in that position, I should have been more aware of what I was doing.

I said that God help us if the Opposition gets into Government. We shall end up with something which sounds very nice, but the difficulty is that Mr Kennett - the guy they are calling Hitler in Victoria - has come along and shown up the Liberal Party policy for what it really is. In reality, the State Liberal Party policy of 20 October 1992 contains a heap of stuff which is so close to everything being put across this country by the Opposition. That is why the Liberal Party will remain in Opposition. After reading that policy - which Hon Norman Moore has not read - I recognise that it is very closely bound to what is happening in New Zealand. I propose to enlarge on that statement.

The policy is so akin to the New Zealand policy that it is almost a duplicate of it. The main part with which I deal is choice in the workplace. I compare this policy to the New Zealand policy. I propose to relate to many passages in the New Zealand Act and if any member objects to that, so be it. Prime Minister Bolger stated about the New Zealand Act -

> . . . "it is the vigour of the individual that will fulfil our economic destiny" . . . In keeping with this monetarist approach, the Employment Contracts Act has seen the New Zealand industrial relations system cast into model similar to that of the United States -

Thankfully we have just seen a change in American politics. It continues -

> - giving priority to non-intervention, increased workforce flexibility, voluntary settlement of disputes all governed by -

This must be particularly taken into account -

> - a loose framework of legal rules.

I will make the point that it is very loose in New Zealand and it is very loose in this policy document. It is an absolute disgrace.

Hon N.F. Moore: That will be good! Are you an expert on this matter?

Hon DOUG WENN: At the end of the debate, I may be an expert; but I have never claimed to be an expert.

Hon N.F. Moore: It can't be questioned that you are not starting off as an expert.

Hon DOUG WENN: I have been in private enterprise and in business, and members opposite should not try to tell me how to cover the whole broad spectrum of that part of one's life. I think some members opposite get lost in their own little world. In Australia, we have had over 100 years of unionism, and through unionism we have worked hard to achieve the right of the individual over the right of those who set out to make huge profits.

Hon W.N. Stretch: Those who are working or the one million unemployed which you have created?

Hon DOUG WENN: I have never worked on the member's farm.

Hon W.N. Stretch: Will you tell us about the one million unemployed you have created?

Hon DOUG WENN: New Zealand has what is called freedom of association. Compulsory union membership has been a linchpin of Antipodean industrial relations systems since the turn of the century. Obviously, the monetarist supported individualist postulate does not sit well with the laws concerning compulsory unionism and their removal is of central importance to the Act. That the Employment Contracts Act is anti-union cannot be denied. Recently, a number of us were in New Zealand, and we met with a former Prime Minister.

The PRESIDENT: Order! I am trying to relate what you are saying to this motion, and you may be getting dangerously close to telling me about it.

Hon Max Evans: Don't hold your breath!

The PRESIDENT: Order! I am speaking. The motion is in two parts. The first part condemns the Kennett Government, and notes the similarity between the Victorian Government's industrial relations policy and that of the Western Australian Liberal Party. The second part of the motion calls upon the State Government to unconditionally guarantee that it will not abolish the items in paragraphs (a) to (f). I remind the member that his contribution should have something to do with those matters.

Hon DOUG WENN: I suggest that I am doing that, to the degree that I am comparing the Opposition's industrial relations policy with the New Zealand Act, which is the overall agenda of the Opposition in respect of industrial relations in Australia. Mr President, it is in your hands whether you will let me continue with what I am saying.

The PRESIDENT: I am not endeavouring to obstruct the member, but the motion refers to the suggestion that this House call upon the State Opposition to unconditionally guarantee that it will not abolish half a dozen things. It does not mention New Zealand. It mentions Victoria and Western Australia. If in the course of your comments you can suggest that the comparison with New Zealand which you are making will bring about the abolition of those things, then I would be happy for you to continue.

Hon DOUG WENN: Mr President, I am happy to do that by advancing my speech beyond the section with which I was dealing. I was trying to compare the New Zealand Act with the Opposition's industrial relations policy. Hon Tom Helm stated in his speech that I would comment about the New Zealand Act, and perhaps he might have been pulled up and told that we are not allowed to do that.

I turn now to an article in *The West Australian* headed "Kennett regime gains power to ban strikes", which states -

> The provision potentially gives Premier Jeff Kennett's Government powers to outlaw industrial action in any industry. The Bill also provides for fines of up to $250,000 for unions and $25,000 for individuals who "interfere" with a vital industry.

Mr President, I ask you to bear with me so that I can make the point that the anti-union system in New Zealand is very strong. All of the industrial rights of unions have been abandoned, so unions have the same rights as any other worker representative. Union

involvement in Government decision making has also been removed with the abolition of the national tripartite wage conference. Under the New Zealand Employment Contracts Act, workers can choose whether to join a union and no employer can positively or negatively discriminate on the grounds of union membership. That will sound beautiful to members opposite.

Hon N.F. Moore: It does. That is a terrific idea.

Hon W.N. Stretch: How many New Zealand workers have taken a drop in wages under this Act? It is five per cent.

Hon DOUG WENN: Every one of them.

Hon N.F. Moore: If you believe that, you are a bigger mug than I thought you were!

Hon DOUG WENN: The Act has effectively meant the end of union domination of workplace representation. Members opposite would love that.

Hon N.F. Moore: Why not? I think most workers would agree.

Hon DOUG WENN: The Act states also, in respect of freedom of bargaining, that in organising a contract with a worker, the employer has the choice of offering an individual employment contract or a collective employment contract. Workers may choose to represent themselves in their negotiation with a prospective employer or may choose any other body to represent them, including a union. I then come to the serious part. Employers will have the right to say to an employee, "I do not want to talk to you", or to say, "I will set up a contract on an individual basis and not on a group basis." The article from which I quoted earlier refers to a work contract drawn up by a Victorian company, Sunset Mobile Homes, and offered to workers at its Melbourne factory. The contract states that the company is union free and pays employees based on how many mobile homes they produce. What will that do for our young people? It will not get them anywhere. Our youth will be lost.

Hon N.F. Moore: What are you proposing for the 30 per cent of youth who do not have a job in Australia?

Hon DOUG WENN: That company refuses to pay its staff holiday pay and penalty rates, and does not recognise trade or higher education qualifications. This indicates that employees are hired on a handyman basis. It outlines that working hours - get this - are from 8.00 am to 6.00 pm, Monday to Saturday. However, if work is not available, employees may take time off without pay!

Hon W.N. Stretch: You have one million Australians off work without pay.

Hon DOUG WENN: Importantly, the employers are not required by law -

Several members interjected.

The PRESIDENT: Order!

Hon N.F. Moore: You are worried about union bosses losing their jobs.

Hon Sam Piantadosi: You just want a pay rise.

Several members interjected.

The PRESIDENT: Order! I will not tell Hon Norman Moore and Hon Sam Piantadosi again.

Hon DOUG WENN: Importantly, employers are not required by law to negotiate with the chosen representative of any worker. Therefore, an employee may hire a lawyer to represent him in the workplace, yet the employer can say, "He's too smart for me; I don't want him to negotiate. Get out!" Therefore, the employee must then negotiate with the employer. What would happen in a workplace in which a non-educated person had to negotiate a contract? If the employer chose not to deal with his representative, where would he go? Nowhere. As Hon Bill Stretch said, these individuals want to work, so he would go to the employer. I shall refer to this point a little later.

Under the New Zealand scheme the discretion to negotiate has moved to the employer. It reads - and this hit me hard - that "employers are no longer required to negotiate in good faith"! Therefore, the employer could say, "I want 2 000 per cent effort from you for a 10 per cent wage." Employers are under no obligation in the work situation until a contract

is signed. This raises other issues. I have spoken to individuals in New Zealand, and many indicated that they did not sign contracts because they wanted to work. In reality, this meant that the individual was unemployed and the employer had 100 per cent control; he or she could do whatever was wished.

These points again relate to the Western Australian Liberal Party's policy which will put everyone on the same mark. All members of Parliament and members of the community should consider this important point.

Hon W.N. Stretch: Get away from the 1850s dogma.

Hon DOUG WENN: I am looking into the future, but members opposite are looking back at 1850: They want kids working in the salt mines and climbing and sweeping chimneys. Members opposite will collect their $200 for that work and give a bowl of soup to the child!

Hon Fred McKenzie: A bowl of rice.

Hon DOUG WENN: Yes, they would provide something to fill the children up for five minutes.

Several members interjected.

Hon DOUG WENN: Another policy in the New Zealand system was brought to my attention. Maybe I should just read this policy instead of making a speech, but over the past couple of weeks I have formed certain opinions. The policy reads -

> The Employment Contracts Act provides for all workers to be provided guaranteed access to dispute resolution procedures through the Employment Tribunals although reinstatement has been removed as the main resolution of unfair dismissal as was the case under previous legislation.

In other words, in the past if an employee felt he or she was unfairly dismissed, and a court agreed, that person had to be re-employed. Under the policy coming forward from the Opposition across the country, that will not be the case. A person can be wrongly dismissed, and be so found, but he or she will not be re-employed or provided with any monetary compensation. Let us consider the institutions which operated in the employment arena over the years. The policy reads -

> In an Act of Parliament that is most notable for what it abolishes, many of the State supported industrial relations infrastructure has been removed. Along with the Commission mentioned above, the Labour Court (previously involved with hearing and resolving industrial disputes) has been restructured as an overseer of the new Employment Tribunals. The tribunals themselves reflect the policy of decentralisation of grievance procedures and the desire to have such matters dealt with in the workplace.

Therefore, if an employee has a problem in the workplace, he or she must go to the employer. I do not want to put the mockers on all employers - I am one myself - as many good people are employers in Australia; I know many of them. However, a few people are not good employers and can only see the mighty dollar. Hon Tom Helm has a notice in his office which reads: If one wants the rich to work harder, one pays them more; if one wants the poor to work harder, one pays them less. Under the Opposition's policy in this field, that is what would happen.

Let us consider the right to strike in New Zealand. The policy reads that since 1849 - maybe Hon Tom Butler could indicate when unionism started in Australia -

Hon T.G. Butler: It was in the 1820s or 1830s.

Hon DOUG WENN: Since 1849 strike action has been legal in New Zealand, as it has been in Australia since the time to which Hon Tom Butler referred. The policy reads -

> The Employment Contracts Act outlaws any strike over any issue while a contract is in force.

Therefore, the situation went from that of an all time low level of industrial disputation under Mr Lange, to the situation where many people in New Zealand - as will happen here - will not sign a contract. This suits the employer because it gives him or her 100 per cent control of the employment situation. Undoubtedly this is happening in Victoria. The Opposition's

policy is a national agenda from the Federal level to each State and Territory; namely, it will screw the workers. Members opposite will make the rich richer and the poor poorer.

Hon P.G. Pendal: The poor are poorer under your Government as 11 per cent of people are out of work.

Hon DOUG WENN: Be quiet! Under the Opposition's policy no man will be in the middle to decide these matters, and the worker will cop it.

Hon W.N. Stretch: What about the one million people out of work?

Hon DOUG WENN: Under the Opposition's policy workers will have to sign individual or collective employment contracts, as is happening in Victoria. In that way workers are not in a position to withhold their services and still retain their jobs. Further, striking individuals and groups can be held legally responsible. This is part of the "you beaut" Opposition's policy. However, this is already happening in Western Australia with some of the multinational companies taking away food or putting workers in legally responsible situations.

Hon W.N. Stretch: The Labor Government has been taking away food from workers in this country every day.

Hon DOUG WENN: Almost word for word the policy to which I refer indicates that workers will be responsible to employers for strike action. Where no contract is in force, strikes remain legal. I said earlier that if a contract is in force there is nowhere to go. Under the system proposed by this Liberal Government employers can take advantage of employees by not signing contracts. Legally, therefore, one is unemployed. For example, if someone is working for a fast food home delivery chain and has an accident in his vehicle, that person is 100 per cent responsible for the expenses involved in that accident irrespective of who was at fault. It is important to be very wary of these contracts.

Hon T.G. Butler: When you jail a man for striking, it is a rich man's country yet.

Hon DOUG WENN: Hear, hear!

Hon George Cash: Have you finished?

Hon DOUG WENN: Have I sat down?

Hon P.G. Pendal: You might as well for all the sense you are making.

Hon T.G. Butler interjected.

Hon DOUG WENN: Hon Tom Butler should be careful; I ask him not to advertise that! I refer again to the effect of the Victorian legislation on wages, conditions and employment.

Several members interjected.

Hon DOUG WENN: If members keep up that interjecting I will do an Hon Peter Foss on them and ask for an extension.

Hon Derrick Tomlinson: You won't get it.

Hon DOUG WENN: Someone will move an extension of time and I believe I will get it. The debate over the effects of the employment contracts legislation on wages, conditions and disadvantaged workers can be interpreted by a shift in the focus of power and the nature of the relationship between the individual worker and the employer. This change has affected the bargaining power of workers which, in tandem with the new stand-down rules for employment benefits, has led to lower wages in a recessed economy. This power imbalance makes workers even more vulnerable. The change in the locus of power has, as I said, switched. Will you, Mr President, give me a direction?

The PRESIDENT: When I give you a direction, you will know about it.

Hon George Cash: The only direction you need, is to make a bit of sense.

Hon DOUG WENN: I used to think the Leader of the Opposition was a nice guy, but sometimes he goes down the gurgler.

Hon Fred McKenzie: You told me that only yesterday.

The PRESIDENT: Order! What about telling us something about this motion?

Hon DOUG WENN: I thought, Mr President, I had been doing that all along by making the comparisons between the New Zealand, Victorian and this Opposition's policy, which is virtually the Victorian policy. I referred earlier to how some people in the caravan industry were put on a very different salary altogether. They worked under a system of being paid for what they produced. In that situation the employer would be instantly eliminating from his employ the young people of the day. People who run organisations like that are unwilling to train young people. They simply want the employee to get to work and make a profit. It is important to be serious about some situations. I am aware of the fact that we are running out of time.

Hon George Cash: Thankfully.

Hon DOUG WENN: I say that about some of the speeches made by the Leader of the Opposition and Hon Peter Foss. Even the Leader of the Opposition says that about Hon Peter Foss' speeches. If this Opposition, God help us, becomes Government it could follow the path taken by the Kennett Government in its treatment of people under employment contracts.

I refer now to what is happening in some areas - dare I refer to New Zealand. Under that country's contracts law, employers are offering to pay individuals $1 an hour which will be above what they receive on the dole. They are saying that they will not discuss the matter because there will not be a contract. That will happen in Victoria, if it is not happening already, and it will happen here in Western Australia if, as I said earlier, God help us, the Opposition ever gets into Government.

Hon N.F. Moore interjected.

Hon DOUG WENN: In some situations people are being paid $1.95 an hour for 90 hours a week. If individuals say they cannot keep up with those hours they are told that if they do not want the work they should go away because someone else will do it. The Opposition cannot deny that because they know it happens. In one instance, a chemist charged his staff for the use of power in his shop. His philosophy was that it kept them employed, therefore they should pay for it. Those are the circumstances which will be created by this Opposition's policies, like those of Kennett, who has beaten this Opposition to the gun by having already created that situation.

Hon P.G. Pendal: Mr Kennett.

Hon DOUG WENN: Only yesterday I made the point that Kennett has introduced legislation to amend the Victorian compensation legislation. The new legislation requires that one must have better -

Hon N.F. Moore: Worse.

Hon DOUG WENN: Have it Mr Moore's way - worse than 30 per cent injury. In other words, under that legislation, if one's leg were cut off below the knee that injury would be classified as only a 28 per cent disability and one would therefore not be entitled to compensation. Kennett has done away with that capacity; he has set the Liberal Party on a roll that will rebound on it. Liberal Party members must look only at the polls to see what is going on. It is rebounding on its members in an horrendous way. They will pay because of that sort of garbage they propose. However, they will pay more because of the garbage about which they have not told the people of Western Australia.

Hon N.F. Moore: It is in your hands; you are reading from it.

Hon DOUG WENN: I refer to a national Federal Government.

Hon N.F. Moore: You have been reading from our policy.

Hon DOUG WENN: I refer to page 5 of the Fightback package.

The PRESIDENT: Order! The member has 15, 14, 13, 12 seconds to go.

Hon P.G. Pendal: Hallelujah!

Hon DOUG WENN: It is in your policy.

Hon N.F. Moore interjected.

The PRESIDENT: Order! I am fed up. I have told Hon Norman Moore that if he continued to interject I would not tolerate it. I have been away this year, and when I came back some

members said that they were pleased I was back because some of the behaviour in the Chamber left a bit to be desired. I take it that the members who brought that message to me were of the view that I would be more inclined to punish those people who ignored this Chair. I now warn Hon Norman Moore that if he interjects again during this debate I will take that action which I proposed in my threat.

HON SAM PIANTADOSI (North Metropolitan) [3.18 pm]: I will not take long. I am concerned about two aspects of the Victorian legislation. For the past couple of years I have been inquiring about this Opposition's various policies. It is now apparent from Hon Doug Wenn's comments that the Opposition had a hidden agenda and that is why we could not get hold of one of its policies. I have also floated the idea over the past couple of weeks that, if in Government, this Opposition would give its members a pay increase similar to that which occurred in Victoria. It is interesting that last week Hon Bob Pike supported an increase in pay -

The PRESIDENT: Order! I gave the member the call because I thought he wanted to speak on motion No 1. The minute he deviates from that, the call will be taken from him.

Hon SAM PIANTADOSI: I am informed that the events in Victoria included a wage increase. We were referring to what has occurred since Kennett got into Government, to some of his promises and actions, and the pay increase was among those.

The PRESIDENT: Order! I am not in the mood for people to disregard what I say to them. I am concerned with what is in this motion. If Hon Tom Helm moved the wrong motion, you ought to have it out with him. The House is stuck with the motion he moved and it mentions nothing whatsoever about the subject which you are speaking about.

Hon SAM PIANTADOSI: I support the motion. I look forward to expressing my views on other matters on another occasion. I, too, am one of the members who welcomes your return, Mr President.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [3.21 pm]: This motion, which I oppose, is nothing more than a scaremongering, time wasting motion from the Government to ensure that important matters on the Notice Paper are not able to be debated. There is no doubt about that. On the Notice Paper today are 25 motions which cannot be dealt with because this motion has been brought on as an urgency motion.

Hon Fred McKenzie: Because you will not sit longer hours.

Hon GEORGE CASH: I want the Government to know that the Liberal Party and the National Party in coalition will sit until Christmas Day, if necessary. There is too much of the Government going into the community and telling lies about whether this coalition is prepared to deal with matters that are on the Notice Paper.

Hon Fred McKenzie: You are not prepared to deal with Government business.

The PRESIDENT: Order! We will be here for a long time. It seems to me that members do not understand that when the big hand on the clock hits six, the time allotted for this debate will expire. It seems to be quite incredible that people who want to speak about a subject spend all the time available to them speaking about anything else but that subject. I suggest to honourable members that my comments to Hon Norman Moore about his interjections are not to be taken as being comments that apply to him alone. That same facility will be extended to each and every member. I want honourable members to keep quiet and listen to Hon George Cash when he gets around to talking about his views on motion No 1.

Hon GEORGE CASH: I am happy to address the motion. In response to the interjection by Hon Fred McKenzie, we will deal with every bit of legislation on the Notice Paper until it is completed. Has the Government got the guts to keep this place sitting? The Government wants to get out of this place, not us.

It is interesting that this motion was moved on the very day that the Australian Bureau of Statistics announced that 99 400 people were unemployed in Western Australia. Never before in the history of this State have so many people been registered for unemployment.

Hon Tom Helm: Or been employed in this State.

Hon GEORGE CASH: Never before have so many people who are out of work not even bothered to register for unemployment. They have not registered because they know it is a

futile exercise. By way of interjection Hon Tom Helm suggested that statistically today more people are employed than at any time in this State's history. That might be the case. Those who have jobs are fine; they have the opportunity to earn a wage and to buy food to put on the table. But I am concerned about the unemployed. At the moment in Western Australia 99 400 people are registered as unemployed; they do not have a job and cannot put adequate food on the table.

Is it not interesting that when Hon Doug Wenn was addressing this motion he kept referring to the Liberal industrial relations policy? When he was asked whether he was referring to the State or the Federal party he said -

Hon Doug Wenn: I said yes.

Hon GEORGE CASH: He said, "Yes; I am referring to the State policy; the one that was released on 20 October."

Hon Doug Wenn: That is right.

Hon T.G. Butler: You have to admit there is no difference.

Hon GEORGE CASH: There is a State policy for the coalition. It was released on 29 October 1992. That is not the policy Hon Doug Wenn was reading from. I do not know what policy he was reading; it may have been some New Zealand policy.

Hon Doug Wenn: The Liberal Party policy.

Hon GEORGE CASH: That was where Hon Doug Wenn made his first mistake. He quoted from the wrong document. From then on, everything he said was worthless. He kept attributing his comments to the State policy. When this debate finishes I will give him a copy of our State industrial relations policy. It talks about jobs and choices. I want Hon Doug Wenn to understand that we want to run the next election campaign on three issues: Jobs, jobs, jobs. That is what we are all about.

Several members interjected.

Hon GEORGE CASH: I just want honourable members to be very clear what Hon Doug Wenn said by way of interjection when I said "Jobs, jobs, jobs." He said, "Jobs are not the issue."

Hon Doug Wenn: I didn't say that.

The PRESIDENT: Order!

Hon GEORGE CASH: Many of the 99 400 people who are unemployed in this State come from the South West Region, the region which Hon Doug Wenn represents. Those people are screaming out for the Labor Government to recognise that unemployment is the major issue in this State at this time.

Hon Doug Wenn: You would do everything you can to stop employment in the south west. Look at the power house.

Hon GEORGE CASH: I have already said that the coalition is all about jobs. When Hon Doug Wenn mentions the power house he touches on a very dangerous issue. In the past 10 years his Government has been talking about a power house. It has been conning the people of Collie for that time. Now, only a matter of weeks before another State election, the Labor Government has been obliged to sign a deal with Asea Brown Boveri in the hope that it will con the people of Collie once more.

Hon Tom Helm: Answer the question, George. Slaves have jobs.

The PRESIDENT: Hon Tom Helm will find that he is not here to close the debate, if he keeps going. I do not know what has gone wrong; people have gone stark raving mad in this place.

Hon GEORGE CASH: This motion talks about the experiences of the Kennett Government in Victoria. We have a State coalition industrial relations policy. It takes into account the fact that Western Australia is not Victoria. Victoria happens to have a manufacturing base; Western Australia has a very limited manufacturing base.

Hon T.G. Butler: They have the same industrial relations policy as the Western Australian Liberals.

Hon GEORGE CASH: We have vast tracts of land and specialised heavy industry in the north. Our policy is tailored to the needs of Western Australia. I would not expect this policy to be applied in Victoria. The problems in Victoria are quite different from those in Western Australia. As I said earlier, Hon Tom Helm introduced this motion in an attempt to waste the time of the House. He tried to establish some link between the Kennett Government in Victoria and the Court-Cowan Government, that will be, in Western Australia.

Hon Tom Helm: Tell us the difference.

Hon GEORGE CASH: We cannot do that because the two States are quite different. A State coalition Government will offer the opportunity for choice. If a person wants, under the Western Australian coalition's industrial relations -

Hon T.G. Butler: Don't be so naive.

Hon GEORGE CASH: - policy, to stay within the existing award structure, he will be able to do that because provision is made for that.

Hon T.G. Butler: Don't talk rubbish!

The PRESIDENT: Order! Hon Tom Butler has a hearing deficiency and I have been prepared to give him some leeway on the assumption that he has not been listening to me or has not been able to hear me. In a moment I will write him a note because I know that his eyesight is very good. The note will tell him that if he interjects again it will be the last time he does so this session.

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

INDIAN OCEAN TERRITORIES (ADMINISTRATION OF LAWS) BILL

Second Reading

Debate resumed from 1 December.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [3.32 pm]: The Indian Ocean Territories (Administration of Laws) Bill is important and it seeks to have the laws of Western Australia applied to the Indian Ocean Territories. While I have read the Bill and the Attorney General's second reading speech very carefully, it is not my intention to speak at length in this debate. Members will recognise that the coalition has a competent person skilled in law in Hon Peter Foss to represent it in legal matters which come before this House.

Hon J.M. Berinson: He rarely takes the opportunity to speak!

Hon GEORGE CASH: At least when Mr Foss does speak he makes sense and that is more than can be said for many members on the Government side of the House. As to people's legal qualifications, if I were a betting man I would put my money on the superior understanding of the law of Hon Peter Foss against, for instance, the Attorney General. However, that is a matter one could debate at length and that is not the purpose of this second reading debate.

The Opposition supports the Bill, but Hon Peter Foss will speak at length on it on behalf of the coalition.

HON PETER FOSS (East Metropolitan) [3.34 pm]: The Indian Ocean Territories (Administration of Laws) Bill is very interesting in what it seeks to achieve. The Indian Ocean Territories have a very interesting legal background. They were taken over by Australia from the United Kingdom at a time when the laws governing the Territories were that of Singapore's. Accordingly, they have quite a complicated legal regime which causes enormous problems every time there is a case dealing with the laws of either of the Indian Ocean Territories.

Another interesting effect of the laws is that it would be possible for the laws which applied in the Indian Ocean Territories merely to have been taken over when the Commonwealth took over these Territories. It did not do that; it actually went out of its way in the Acts by which it took over these Territories to specifically provide in the laws relating to them that the previous laws applied by virtue of Commonwealth laws. It does not apply because it is

being inherited; it applies because the Commonwealth has said these laws apply by reason of Commonwealth laws, and not otherwise. We have a rather interesting effect because every single law, probably even the common law, inherited by the Territories applies by virtue of a Commonwealth law. The consequence of that is that anything done on these Territories falls under Commonwealth law and is pursuant to a Commonwealth Act and for that reason falls within the jurisdiction of Commonwealth administrative laws.

Usually the situation with administrative Acts under the Commonwealth law is that many of the things done by Commonwealth officers are done pursuant to the Executive rights. Any Government can do many things an ordinary person can do with his own property, purely because it happens to be the Executive. It goes back to the days when monarchs were feudal landowners and could do within their territory what they did as private people. They could even be feudal tenants of another monarch's land. Many of the things now done by the Executive are done by reason of that carried forward Executive right to do things which goes back many centuries. As well as that, there are many areas where Statute law has either created a new Executive right or has said how an Executive privilege will be exercised. Once that happens it can be exercised only in accordance with that law.

Commonwealth administrative law provides a right of appeal and review. The right of appeal is under the Administrative Decisions Judicial Review Act and the right of review is under the Administrative Appeals Tribunal. With that comes certain powers to obtain a statement as to the reasons for that administrative decision taking place. This arose recently for a decision in a case brought between the Commonwealth Government and the liquidator of the Christmas Island phosphate company and a company in Western Australia and the Christmas Island phosphate workers. At that point it was not decided, but it appears from that case that one of the things that will apply as a result of the laws which apply in the Indian Ocean Territories is that every one of the Acts referred to in part 2 of the Bill will be subject to the Commonwealth administrative provisions. In fact, the net effect of this will be that a number of State authorities and the State itself may very well be subject to Commonwealth laws relating to a review of administrative decisions as a result of them exercising the powers under this Bill.

An interesting situation exists in the Indian Ocean Territories because we have, first, the substantive law, which is the law that will generally be applied in determining matters in those areas. They all derive their authority from Commonwealth law and they contain many provisions going back to Singapore law and English law. We also have administrative law, which is law relating to right of review and appeal. Then we have the remainder of the adjective law, which is not the substantive law, but the law which tells a person how things will be done, and that will be applied pursuant to this Bill.

The legal situation in the Indian Ocean Territories, which is already complex, will become even more complex. I am sure these arrangements have been put together in an attempt to overcome some of the existing problems. One of the cases which led to this legislation was a murder which took place on Christmas Island. The case was moved to Western Australian law to have it tried. In a number of cases in the Territories a judge of the Federal court has had to go to the Indian Ocean Territories and sit there as the Supreme Court.

That has been fairly disruptive of getting things done. The Commonwealth does not have an appropriate way of handling such things. It makes much more sense for Western Australia, which is far closer and has administrative procedures which better fit in with the Indian Ocean Territories, to take over this role. At the same time, I suggest that it is probably time that the Commonwealth Government looked seriously at the substantive law of the Indian Ocean Territories to try to simplify those laws. The problem is when one looks at the laws that apply one cannot look at the Singapore laws as they stand but as they stood at the time the Commonwealth took over the Territories. That means that one must go back to a frozen point in time in order to find out what is the law. That may also mean that we find some undesirable laws because things have moved on since we took over the Territories from Singapore. On the other hand, the law is not changing; nor is there an appropriate Legislature to update things on the island. A suggestion was made that Christmas Island have a local Legislature. Despite that being put in place, for one political reason or another it never actually eventuated.

Hon T.G. Butler: It did.

Hon PETER FOSS: Yes, briefly. It did not last long. The net result was that the people on Christmas Island and Cocos (Keeling) Islands have a pretty complex set of laws governing them and not much chance of getting anyone to fix them.

Hon P.G. Pendal: What sort of population are we looking at?

Hon PETER FOSS: I do not know, but not a substantial number of people.

Hon T.G. Butler: I think close to 2 000 people.

Hon PETER FOSS: That sounds about right.

Hon P.G. Pendal: Norfolk Island is fully self-governing with a population of under 1 800 people.

Hon PETER FOSS: Strong grounds arise for establishing a Legislature there. One way or another, they must have an opportunity to bring their laws up to date. This Bill overcomes one of the problems they have which might have prompted them to do something about these matters in that it enables them to be put off to a later date. Substantial problems arise here. I do not believe the number of people involved should mean we ignore them or their problems.

Hon T.G. Butler: I agree. It does not solve all the problems, but it helps.

Hon PETER FOSS: Yes, it helps, but in some way it hurts to help because it enables us to put off the evil day when we should address some of the more serious problems.

Hon T.G. Butler: I think Australia took over about 1956.

Hon PETER FOSS: I had a feeling it was 1950, but Hon Tom Butler may be right. It was certainly in the 1950s.

Hon T.G. Butler: Singapore law applied then.

Hon PETER FOSS: Singapore law changed, but they are stuck with it as it was at the time Australia took over along with any changes since then and the English law that was part of the Singapore law at the time the Singapore Crown Colony started. To find out what the law is one has to go back to English law at the time of the establishment of the Singapore Crown Colony and then follow through to the 1950s with Singapore law and from then on Australian law. To put it mildly, not many textbooks exist on that law. Every time a point of law is raised involving Christmas Island it costs about 100 times more than anywhere else to find out what on earth it is about. One never gets a definitive answer because it is so complicated.

The Indian Ocean Territories have been left a bit behind in substantive law. That problem needs to be addressed. The point has been made that perhaps the best way to address it is to give the islands their own Legislature and allow them to do whatever is necessary to bring it up to date. They would then finish up with not only laws they understood, but also ones relevant to their situation.

Hon P.G. Pendal: I would be prepared to go back to Norfolk Island, if that would help, to put that in place.

Hon PETER FOSS: A generous offer from Hon Phillip Pendal.

Several members interjected.

Hon PETER FOSS: I had not realised previously how much interest was shown in the welfare of the Indian Ocean Territories by members of the Chamber.

Several members interjected.

The DEPUTY PRESIDENT (Hon D.J. Wordsworth): Order!

Hon PETER FOSS: Hon Tom Butler has made a sensible suggestion.

Sitting suspended from 3.45 to 4.00 pm

Hon PETER FOSS: The Bill as drafted is a neat Bill with quite an orderly way of dealing with the problems. It is quite broad in its effect and deals with two different aspects. One is the Executive power and the other is the judicial power that the Commonwealth has with respect to these Territories. It is my understanding that it does not deal with any legislative powers in the Territories. The "State authority" that can exercise that authority is defined in a very broadly drafted clause 3 and appears to encompass the full breadth of the Executive

arm of this State. It will be bought into effect by an agreement between a State authority - with approval of the Minister - and the Commonwealth. This dichotomy is kept in one case in the exercise of powers and in the other in the exercise of jurisdiction by State courts. The Commonwealth has its own peculiar constitutional limitations with respect to that. Part 3 of the Bill deals with the exercise of powers within the Territories. Again it is quite neatly drafted in its intent. The interesting point about part 4 is that clause 12 will provide for further confusion in the law - sensible confusion, but nonetheless will make things nicely complicated. When a State court is exercising a jurisdiction under a Bill clause 12 states -

> . . . the rules of evidence, practice and procedure applicable to a State court or State judicial officer exercising any jurisdiction, or hearing and determining any proceeding, referred to in section 11, are the rules of evidence, practice and procedure in force from time to time in relation to that State court or State judicial officer in this State.

We will have an interesting situation with substantive law being the Territories' substantive law, the administrative law will be Commonwealth law, and some of the adjective laws as far as the court is concerned will be State laws. Quite an interesting mixture of laws will apply when one gets before a court exercising jurisdiction under this Bill. Three regimes will apply to any matter that might come up in dispute.

Hon J.M. Berinson: Would you repeat the distinctions that you indicated that lead you to three regimes?

Hon PETER FOSS: The basic substantive laws of the Territory which go back to Singapore.

Hon J.M. Berinson: That has all gone.

Hon PETER FOSS: When was an Act passed to get rid of that?

Hon J.M. Berinson: The Commonwealth Act replaces any previous law. It is not done in this Bill, it is done in the 1992 Commonwealth Act.

Hon PETER FOSS: That is not referred to here.

Hon J.M. Berinson: It does not need to be. The Commonwealth effectively applies State law in lieu of that pre-existing law.

Hon PETER FOSS: That makes things a lot better and only two laws will apply; that is, the State law so far as substantive law is concerned and the Commonwealth law so far as administrative laws are concerned. That will not be affected, I take it?

Hon J.M. Berinson: Could you elaborate about what you are referring to as administrative law?

Hon PETER FOSS: When the matter was first raised with me I asked what would happen to appeals of an administrative nature under Commonwealth law? The information that came to me was that it would not change, that Commonwealth law would still be substantive law of the Territories; although as Mr Berinson now tells me a large amount of substantive law will be applying Western Australian law. However, Commonwealth administrative law still applies in the Territories because they are under Commonwealth law. I understood that situation was not changed.

Hon J.M. Berinson: I will respond subsequently.

Hon PETER FOSS: It would be helpful if Mr Berinson would nod occasionally, because that is the information I have been given. I understand that to be correct; if it is not correct I would like to know. That is certainly the information that was given to the Liberal Party's spokesperson on the matter when I queried her. If it is the case that the Commonwealth administrative law applies we will have two sets of laws applying and not three; that is, administrative law which is applied by virtue that it is all applied into Commonwealth law, with State law applying in the courts as a result of clause 12 under the rules of evidence. I am a bit surprised we need that if this is the case, unless the Commonwealth law which deals with this only applies substantive laws and does not deal with matters such as that. This seems to be a quite a neat way of handling this matter. If we are to provide this type of service to the Commonwealth, it appears appropriate that if it fits in neatly with Western Australia that we carry out these duties. The scheme of the Bill and the way it provides for the arrangements to be made appears to be quite a good one. I do not see it as posing any

problems in practical application. If there is any minor concern it is that clause 9(1) states that the Governor may by order -

(a) exempt a State authority from complying with any provision of a written law of the State in so far as the State authority is exercising any power, performing any function or duty or providing any service in or in relation to a Territory; or

(b) modify the effect of any provision of a written law of the State in so far as that provision applies to or in relation to a State authority exercising any power, performing any function or duty or providing any service in, or in relation to a Territory.

On what basis would that occur? In the British system we all have a natural loathing of the power of the Executive to exempt people from the effect of laws. That occurs mainly because of the abuses which took place during the period of the early Stuarts when exemptions from laws were purportedly granted by the monarchs at that time, much to the disgust and general disagreement of the House of Commons. Admittedly, we are providing for that to occur here, but a natural concern applies to providing for exemptions from laws. What sorts of provisions does the Government think may be required? Is this merely a precautionary provision that has been included just in case it comes up, without any particular concerns being envisaged? I am not sure whether the Attorney General can answer those questions, although I am sure he will do his best to do so.

The Opposition has considerable comfort in being able to support this Bill and hopes that it will lead to a more speedy and efficient method of providing these services than previously when they were handled by the Commonwealth through the Federal Court of Australia. It should avoid the sort of matter - about which members would have read in the newspapers - which occurred when a difficult murder trial took place arising out of a murder on Christmas Island.

HON D.J. WORDSWORTH (Agricultural) [4.11 pm]: I am not an expert on law; however, it appears that although Australians love to criticise Britain as a colonial power, we seem to be getting into a bit of trouble ourselves in almost the same regard. We have a difficulty in governing the Territories which were not necessarily gained by conquest.

Hon J.M. Berinson: I do not think the Territories are complaining.

Hon D.J. WORDSWORTH: Let me explain. I say that because my father was Administrator of Norfolk Island when he retired from the Senate. I assure the Attorney General that the people of that island were complaining because they believed they had been given Norfolk Island when the British took from them Pitcairn Island as descendants of the men who took part in the mutiny on the Bounty, such as Fletcher Christian. When they were placed on Norfolk Island they were told that the island would be tax free; the Queen guaranteed that. When it became an Australian Territory it was a little difficult to maintain that promise because it became a tax haven, particularly for gift duties. It was quite common for people to go across with their bank accounts and those of their children and transfer funds from the Commonwealth Bank to their children's accounts and, therefore, save on gift duty. That racket has now expanded. Australia had a difficulty in trying to maintain a tax free approach for genuine Norfolk Islanders while still catching the lawyers who would go across - and continue to go across - to that island in streams with their clients to gain tax benefits. I do not say that that is occurring with these Territories.

People can become very confused with these Territories. The sooner such Territories come completely under Australian law, the better. Perhaps those islands could be part of Western Australia. They could be similar to Rottnest Island and perhaps included in one of the electorates. The people on those islands could be given true Australian citizenship. At present they are Australian citizens, but subject to different laws. Over a cup of tea a few minutes ago I was told by the experts that it is not as easy as that and that conquerors usually leave the original law of the land and gradually develop their own. Perhaps that is what this legislation is doing.

HON J.M. BERINSON (North Metropolitan - Attorney General) [4.14 pm]: I thank the Opposition for its support of this measure. One of the major questions raised by Mr Foss was answered sufficiently by my interjection. That question related to the distinction

between the incorporated State law constituting an overlay of existing Territories law, as opposed to its being a replacement. It is in fact a replacement. I can also confirm now - which I was not game to do by interjection - that Mr Foss' reference to Commonwealth administrative law is correct.

Hon Peter Foss: Does it continue?

Hon J.M. BERINSON: Yes.

Hon Peter Foss: Does the Attorney General know how far that goes; will it be only the Acts referred to or will it be more than that?

Hon J.M. BERINSON: It must be recognised that the State law extends only as far as the law operates within the State. However, beyond that a scope exists for Commonwealth law and, with that, the application of Commonwealth administrative law.

Hon Peter Foss: Do you know to what extent the Commonwealth administrative law is applied and how that occurs?

Hon J.M. BERINSON: No; I do not have that detail.

Mr Foss raised a question about the purpose of clause 9. Paragraphs (a) and (b) of subclause (1) provide for the possibility that in carrying out activities in or on behalf of the Territories, State authorities may find themselves adversely affected by the provisions of Western Australian legislation. In those circumstances it may be necessary and in the interests of the State to protect those authorities from that adverse effect by exempting them from the particular provision or by modifying the effect of the provision. An example of the sort of unintended adverse impact with which this clause is intended to deal is found in section 15(1) of the Workers' Compensation and Rehabilitation Act, which discontinues compensation coverage for State employees who are employed outside the State for more than two years. As this provision of the Act would adversely and unfairly affect Western Australian employees posted to the Territories for a period in excess of two years, and given that the Commonwealth has agreed to meet all direct and indirect costs, it is intended that the provision be nullified by notice. The provision is drafted broadly because it is impossible to predict every adverse possibility. However, it is anticipated that the provision will be rarely used and, even then, will be subject to parliamentary scrutiny.

I am not sure whether I understood Mr Wordsworth correctly in his references to Western Australia as a colonial power. That is not the situation; nor is it the position of the Commonwealth. These Territories are, of course, incorporated into Australia and are Australian Territories in the same way as all other such Territories are. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Arrangements relating to exercise of powers by State authorities -

Hon PETER FOSS: What is the meaning of the word "power"? I said in the second reading debate that I assumed it meant "Executive powers". Is it intended to be any legislative and in particular delegated legislative powers exercised by the State? What are the limitations on the Commonwealth with regard to empowering people to exercise legislative powers in Territories as opposed to its powers, which are quite limited, in the Commonwealth?

Hon J.M. BERINSON: There is no question of State authorities' exercising legislative powers. I do not know whether this is in the context of the question, but there is the capacity, I think, to comprehend within the word "power" in this clause the judicial power of the State's judicial officers.

Hon Peter Foss: That is in another clause, anyway.

Hon J.M. BERINSON: Yes, I accept that also. I can only answer in the negative.

Hon PETER FOSS: I imagine that quite a lot of the things will be taken over and run by the State on behalf of the Commonwealth. Frequently, when things are taken over, it is done by also passing regulations at the same time; for example, teachers have regulations as do electricity suppliers. Often minor functionaries are covered by regulations. Is it intended that the Western Australian regulations apply or will the local administrator apply those regulations and then our people operate under them?

Hon J.M. BERINSON: Taking up the example of education, which is something concrete we can latch on to, the position is that the State laws would carry the State regulations with them. To the extent that they need modifying for particular local circumstances, that would be a matter for the Commonwealth.

Clause put and passed.

Clause 5 put and passed.

Clause 6: State authority may exercise powers in Territory -

Hon PETER FOSS: Many of our services under State law provide some sort of statutory exemption to that body when providing those services within the State. If a body provided that service but did not provide it as a State authority but pursuant to the agreement, would that exemption still apply? Let us assume that the Education Act has some sort of exemption for the department relating to the provision of teaching services. That Act has now been extended to the Territory but the services are not being provided pursuant to that Act, but pursuant to this Bill. To that extent, the Ministry of Education is not the Ministry of Education, it is the contractor pursuant to the arrangements in this Bill. In the same way that if the Ministry of Education provided teachers to a private school in Western Australia, I doubt whether it would be able to claim the exemptions of the Education Act for what those teachers do there. What is intended to be the situation with statutory exemptions for liabilities that are presently contained in Western Australian Acts where the State is virtually a contractor under this part 3 to provide those services?

Hon J.M. BERINSON: It is not altogether easy to provide an answer to that because the question can be understood in a number of ways. For my own part, it seems that the starting point has to be that, if we are dealing with a school, we are dealing with a Commonwealth school, not with a State school and the services are contracted to the school.

Hon Peter Foss: You picked up the point I was referring to. Therefore, the Western Australian Education Act would apply.

Hon J.M. BERINSON: I have taken advice on this and, starting from the beginning, the member is dealing with a Commonwealth school, but it is run administratively under State conditions. It would carry with it any State exemptions, indemnities and so on. It is no doubt for that reason that the agreement with the Commonwealth requires the Commonwealth to pick up the effect or cost of any exemptions or indemnities of that kind.

Hon PETER FOSS: The first statement the Attorney General made is that one would not normally expect a Western Australian Act dealing with education provided by a Western Australian department to apply to a Commonwealth school.

Hon J.M. Berinson: But you do here.

Hon PETER FOSS: The Attorney General is saying that the express intention is that Western Australian law will apply to the department because it is carrying out its function as a department when it is subcontracted to the Commonwealth. Also, to the extent that it is protected under its law when providing in Western Australia for Western Australians, it is equally intended that the law should apply when it is providing it to the Commonwealth as a contractor to the Commonwealth. The Attorney General is saying that it almost becomes a Western Australian purpose to provide it to the Commonwealth pursuant to this Bill and that is why the Act should apply.

Hon J.M. Berinson: You can put it either way; it is a State purpose to provide or a Commonwealth purpose to have it provided.

Hon PETER FOSS: Normally a statutory exemption would apply only when carrying out a Western Australian obligation as opposed to subcontracting a Commonwealth obligation. When it is acting on behalf of the Commonwealth it is an agency of the Commonwealth.

That is the important point. Therefore, any immunity that the Commonwealth can confer would be conferred on Western Australian people acting as an agency of the Commonwealth. That would apply under Commonwealth law. They would have an exemption under Commonwealth law as an agency of the Commonwealth, and it is intended that Western Australian law should also benefit them to the extent that on behalf of Western Australia they are providing this on a contractual basis to the Commonwealth. Both exemptions would apply to the State people providing these services under this Bill.

Hon J.M. Berinson: Yes.

Clause put and passed.

Clauses 7 to 17 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 J.M. Berinson (Attorney General), and passed.

LAND TAX RELIEF AMENDMENT BILL

Second Reading

Debate resumed from 1 December.

HON MAX EVANS (North Metropolitan) [4.34 pm]: This is a very short, simple Bill which will correct drafting errors in previous Bills. The legislation affected is the 1991 and 1992 Land Tax Relief Acts, both of which are now being amended. The second reading speech states -

> The legislation had necessarily been drafted as a matter of urgency so that assessments already issued could be cancelled, and the issue of fresh assessments would not be so delayed as to seriously affect 1991-92 revenue collections.

It continues later -

> The State Taxation Department issued assessments on that basis believing that they were authorised by the Land Tax Relief Act 1991. Although the provisions of the 1991 relief Act might appear to have been satisfactory because they provided for 1991-92 land tax to be assessed "on the basis of the unimproved value of the land as on 30 June 1990 or 30 June 1991, whichever is the lower", a problem has since come to light.

We accept that errors can be made on dates and valuations, and I am amused by the use of the word "relief" in the title of the Bill. I would have thought that a better word could be used to describe this measure, because there has certainly been no relief from land tax since 1983 when I started looking at the figures. It produced revenue of $24 million in 1983, which increased to $49 million in 1986. It produced revenue of $74 million in 1989, $92 million in 1990, $150 million in 1991, $133 million in 1992 and next year it is anticipated to produce $132.5 million. Land tax is one of the great providers of revenue for the State. The rate has been fixed, although it was dropped a couple of years ago from 2.4 per cent to two per cent, a decrease of approximately 19 per cent. Other than that, no changes have been made.

However, the valuations of land have gone through the roof. Local government at least has the decency to recognise increased valuations and it scales down its rates to try to even out the tax. Of course, that does not work for everybody and some people will pay more than others, but at least local government has that discretion to even out the rate. This Government has never proposed to change the rate at which land tax is imposed. Valuations of land have been carried out every three years and legislation will be introduced to allow for them to be done annually. That is a warning to all of us.

I hope that this State will not rely too much in the future on valuations by computer. I looked at the valuations of the Morley house and land packages which were valued on the basis of

the value of the land around them. However, it had a much lower value, which was agreed to. If this huge State is to be valued by computer each year - if the entire State can be covered because otherwise all valuations will remain the same - it will give the Government the opportunity to change the rate each year in order to avoid big increases in the level of tax paid. However, I warn people that it is more likely to work in the reverse direction; that is, the valuations will go down and the rates will go up to compensate so that no revenue is lost. Governments, of whatever persuasion, are revenue greedy. It is an unfortunate fact of life that we all learn to live up to our incomes, and Governments do the same. It is probably an opportune time for the Government to try to value all the properties at the one time so that it can change the rate to get more revenue. However, under the old system if the valuations decreased they would at least stay at that reduced level for three years, and the Government could not adjust the rate.

It is quite obvious what will happen with these decreases. The Valuer General in his report for the metropolitan area for 1991-92 indicates a drop from $17.7 billion to $16.5 billion in the overall value of properties. If that happened throughout the State the Government would receive slightly less revenue from land tax because of the lower values. In rural areas land tax has increased annually since 1985 by 98 per cent, 75 per cent, 54 per cent, 152 per cent, 136 per cent, 142 per cent, 89 per cent and 96 per cent. Those increases are on unimproved values. I am not worried about the unimproved rural values or the gross rental values. The people owning land in country towns at the next revaluation will be subjected to increases in land tax of 100 per cent or more when the land is worth no more to them. I have always said that land tax is a wealth tax on those who do not earn income from it and a tenants' tax on those who rent property on which land tax is payable.

This Bill will provide some relief for land tax assessments so that they will be levelled out to account for the fact that, some years ago, there were some anomalous increases in land tax because property values had increased rapidly due to the inflationary state of the economy. The Government agreed to offset that situation by phasing in the increases in land tax over a three year period, so that rather than a person's having a land tax assessment of $10 000 one year and an assessment of $22 000 the following year, in the first year he would pay $14 000, in the second year $18 000, and in the third year $22 000. That property boom occurred partly because certain insurance funds were awash with money and bought property for more than it was worth. A good example is a property in Shafto Lane in the city, for which one of my friends was offered $11 million during the boom but wanted $20 million. Today, that person could not get $6 million for that property.

The Government proposes to rely upon a computer valuation in order to assess property values. I cannot see how the Government can do that and how such a valuation will have any credibility. The Attorney General is looking at me, because that will probably be applied to some of his properties! The computer will not show up properties which were sold at a loss, or properties for which people paid high prices but which they do not want to sell at a loss. The computer will not show downward valuations.

In December 1991, the Government enacted the Land Tax Relief Act 1991 to provide relief for 1991-92 land tax assessments. This Bill will provide relief for 1992-93 land tax assessments in order to iron out anomalies caused by the fact that the Government did not get it right last time. I have not tried to be a Philadelphia lawyer to see whether the Government has got it right this time. I hope the Government has got it right this time and that taxpayers will be given the relief which they deserve and which is far too late and not enough. The land tax paid in this State is horrendous. The situation must be looked at closely in the future because people do not want to see the value of their asset eroded because they have to pay a high rate of land tax.

Some years ago, when properties were increasing in value due to inflation, people could rationalise the fact that if their land tax increased there was the compensating factor that when they sold that property they would get back what they had paid for land tax on it. A person who owned land and could not pass on to a tenant the cost of land tax would know that at least at the end of the day he would be in front. Today, a person may be paying land tax of $100 000 per year, but his property may not be increasing in value by that amount per year, so the value of his property is being eroded by that wealth tax. It will be a sad day for this country when the value of people's property is eroded in this way, because it will be a long time before they are in a position to develop that property further. I urge the

Government to implement this Bill so that no impediments are placed in the way of taxpayers next year. We must improve the situation for people who pay land tax. The Opposition supports the Bill.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Garry Kelly) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon GEORGE CASH: I raise the case of a property in the Fremantle area which has been drawn to my attention because of the land tax and metropolitan region improvement tax imposed upon it. Members will recall that, on a number of occasions, the Government has claimed that land tax had not increased beyond the rate of increase in the consumer price index. However, I have here an assessment which indicates clearly that in 1989-90, land tax on this property was assessed at $35 400, as was also the MRIT.

Hon J.M. Berinson: Are you saying that $35 400 was the total of the two taxes? You seemed to indicate that it was $35 400 for each, and that is not possible.

Hon GEORGE CASH: I am sorry. That was the aggregate taxable value which was applied to both land tax and MRIT. That was not the amount that was payable, of course. The amount payable was $175.50 for land tax and $79.65 for MRIT. In 1990-91, the land tax aggregate taxable value for the same property was $61 200, and the amount payable was $455.60. In 1990-91, the taxable value was $61 200, and the amount payable was $137.70. By 1991-92, the aggregate taxable value had increased to $68 000, and the amount payable was $543.97. In 1991-92, the aggregate taxable value for MRIT was $68 000, which required a payment of $153.00.

Can the Attorney General explain to the Chamber how those substantial increases could have occurred when the Government has been at pains to say that taxes and charges will not increase by more than the CPI? Will the Attorney General also explain to the Chamber what are the functions and purposes of the land tax review committee, which I understand is in operation at the moment, and when is it expected to report?

Hon J.M. BERINSON: The premise upon which the first part of Mr Cash's question is based is incorrect. The Government has never spoken in terms of taxes being linked to the CPI. What the Government has said in respect of the CPI linkage relates only to charges. It has always been accepted by the Government, and freely acknowledged, that land tax is one of those taxes which will exceed the CPI increase where the land valuation increase exceeds the CPI rate. That is the fundamental approach of the land tax system, and it bears no relationship to questions about the CPI. Certainly, the Government has never given any commitment in respect of such a linkage.

I am not personally in touch with the land tax review committee to which the Leader of the Opposition referred, but, subject to correction, I have a memory that the committee's consideration is close to the point of completion, if not already at that point. I am not aware whether the committee has presented a report as yet, but I have the impression that it is thought that its report will be available in time for consideration of any changes that might be possible in the 1993-94 financial year. If I am incorrect in that, I will take an early opportunity to advise the Leader of the Opposition direct.

Clause put and passed.

Clauses 2 and 3 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 J.M. Berinson (Attorney General), and passed.

COMMISSION ON GOVERNMENT BILL

Receipt and First Reading

Bill received from the Assembly; and on motion by Hon John Halden (Parliamentary Secretary), read a first time.

Second Reading

HON JOHN HALDEN (South Metropolitan - Parliamentary Secretary) [4.50 pm]: I move -

That the Bill be now read a second time.

The Government welcomes the recommendations of the Royal Commission into Commercial Activities of Government and Other Matters. This Bill is the first of a number of legislative measures that the Government will introduce on the basis of those recommendations.

The Royal Commission's second report signals the beginning of a new era of improvements to government and public administration in Western Australia. The Government has prepared a document which outlines its approach to the recommendations of the Royal Commission, which I will table for the information of members. Central to those reforms will be the work of the Commission on Government to be established by this Bill. The commission has the task of identifying the best means of implementing a range of the most important recommendations of the Royal Commission. It is not intended to be a second Royal Commission in disguise; rather, it is an expert body which will translate the Royal Commission's recommendations into a concrete form that can be implemented in practice.

The role of the Commission on Government can only be understood in the light of the blueprint for government outlined in the Royal Commission's report. The Royal Commission identifies two complementary principles that underpin our constitutional arrangements. The first is the democratic principle that "It is for the people of the State to determine by whom they are to be represented and governed." The second is the trust principle that "The institutions of Government and the officials and agencies of Government exist for the public, to serve the interests of the public." The Royal Commission notes that both principles - and the commitment that they assume to the rule of law and to respect for the rights and freedoms of individuals - need to be translated into practical goals if they are to provide the basis for Government in this State. The commission found that both of these principles are not adequately enshrined in the current political and governmental system. Its most fundamental recommendations require the realignment of the very foundations of our democratic system - the basis on which members of Parliament are elected, and the powers and functions of the Legislative Council in particular. It affirms the most fundamental principle of our Westminster system - that the Legislative Assembly is the House of Government and that the Executive, the Cabinet, is responsible to that House. As a corollary, the Legislative Council is to lose its power to block Supply, but is to be given a specific charter to oversee the public sector. The changes to the electoral system and the parliamentary mechanisms for scrutiny of the Executive are matters for consideration by the Commission on Government.

The Royal Commission has recommended that the Commission on Government be constituted in a way that incorporates checks and balances. This is because the Executive, the Opposition and the Parliament, especially the Legislative Council, could be seen to have vested interests in the outcome of the commission's deliberations. For this reason, the commission will report to Parliament, but its members are to be appointed by the Executive. As a check on that process, the Executive must consult with the Opposition on those appointments.

The Royal Commission builds upon the foundation of a truly democratic Westminster Parliament a system of accountability of the Executive and its administrative arms. It proposes a new relationship of accountability of the Government to both the Parliament and to the people directly. The commissioners also recommend an assessment of greater judicial scrutiny of both the Parliament and the Executive through changes to the administrative law, and to the scope of parliamentary privilege, subject to the protection of free speech in this place. The question of parliamentary privilege is referred to the Commission on Government. The commission puts forward a range of measures aimed at ensuring that the Parliament is adequately resourced to carry out its scrutiny of the Executive. These include -

The creation of new parliamentary agencies; a commissioner for public sector standards and a commissioner for the investigation of corrupt and improper conduct.

Radical enhancement of the powers, immunities and independence of the Auditor General.

A new system of parliamentary committees.

Changes to question time.

Separate Budget arrangements for the Parliament.

Members of Parliament are also to be subjected to new accountability measures. In particular, the commission has endorsed the Members of Parliament (Financial Interests) Bill, and - subject to a handful of amendments - the political donations legislation introduced by the Government earlier in the year. Many of these matters are referred to the Commission on Government. The Executive is to be opened up directly to the public.

Apart from freedom of information and a statutory right to reasons for administrative decisions, the commission recommends a comprehensive review of the many secrecy provisions scattered among the Statute book, and protection for so-called whistleblowers. It should be pointed out that although the term "whistleblower" has gained some currency, it has no settled meaning. The Government's view of its proper meaning is the one adopted by the Select Committee on the Official Corruption Commission; namely, that whistleblowers are informants who, subject to safeguards, are relieved of confidentiality obligations. The safeguards include measures to avoid malicious complaints and restrictions on disclosure of the existence of complaints by the informant. For their part, genuine informants are to be protected from discrimination or retribution. To underpin the open access reforms, the Royal Commission proposes new Government records legislation to ensure that information is complete and readily accessible. The Commission on Government will advise on the form that such legislation might take.

Finally, the commission recommends sweeping changes to the structure and management, including financial management, of the public sector. These changes are likely to result in a new public sector management Act, a State-owned companies Act, and new audit legislation.

I turn now to the detail of the Bill: This Bill is a straightforward implementation of the recommendations in chapter 7 of the Royal Commission report. It is divided into five parts. Part 1 contains the commencement provision, definitions and a provision stating that the Act will bind the Crown. The Bill must commence by 1 February next year.

Part 2 of the Bill sets out the functions of the Commission on Government. These are simply to inquire and report to the Minister and the parliamentary committee required by part 4 of the report. Special provision is made for the possibility that the Parliament is not sitting or is prorogued or dissolved. It is open to the commission to make interim reports and, in particular, it is required to report after nine months on the electoral systems in the Legislative Assembly and the Legislative Council. This is to allow time for the implementation of those recommendations before the electoral redistribution due in 1994. The 15 terms of reference are set out in a table, and directly reflect the Royal Commission report.

Part 3 of the Bill deals first with the establishment and staffing of the commission, and then with its procedures. The commission will comprise a full time chairman and four part time commissioners, appointed by the Governor on the recommendation of the Minister. The Bill specifies that the chairman should have a sound knowledge of, and background in, ethics and constitutional and administrative law, and that the part time commissioners should have knowledge and experience relevant to the terms of reference.

The terms and conditions of appointment are to be determined by the Governor. Commissioners may resign and are automatically removed from office if they become insolvent under administration. They may be removed by the Governor if both Houses of Parliament request such a step on the grounds of neglect of duty, misbehaviour, or mental or physical incapacity. Provision is made for the commission to employ its own staff and consultants, as well as to make use of the services of State Government staff or facilities. The commission is required to consult the public, to act openly and, in general, to make available to the public all submissions, objections and suggestions made to it. The commission will have access to certain records of the Royal Commission to assist it in its inquiries.

Part 4 of the Bill requires the Parliament to establish and maintain a joint committee to monitor the commission and examine its reports.

Part 5 of the Bill contains the regulation making provisions and the two year sunset clause. Provision is made for the transfer to the Minister of the property, records and liabilities of the commission after it ceases.

I expect a great deal of interest in the deliberations and report of the Commission on Government. The Auditor General has kindly agreed to receive submissions to the commission in the period between the passage of this legislation and the appointment of the commissioners. The submissions will be passed on once the chairman of the commission has taken up his or her office.

The Royal Commission's second report provides an opportunity for parliamentary, electoral and administrative reform of a type that can be expected only once in a century. The Commission on Government is an integral part of this reform process. On behalf of the people of Western Australia we have an obligation to seize this opportunity to revitalise our political system.

I commend the Bill to the House.

Debate adjourned to a later stage of the sitting, on motion by Hon P.G. Pendal.

[Continued on p 7757 .]

[Questions without notice taken.]

ACTS AMENDMENT (JURISDICTION AND CRIMINAL PROCEDURE) BILL

Returned

Bill returned from the Assembly without amendment.

LEGAL AID COMMISSION AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Tom Stephens (Minister for Services), read a first time.

Second Reading

HON TOM STEPHENS (Mining and Pastoral - Minister for Services) [5.35 pm]: I move -

That the Bill be now read a second time.

Legal aid is the principal means by which Governments ensure that individuals in the community are not prejudiced by their inability to afford legal representation, or to obtain legal advice and information about the law and the legal system. It is one of the fundamental means of ensuring access to justice.

This Bill proposes to amend the Legal Aid Commission Act 1976 to enable the Legal Aid Commission to function more efficiently and to improve the delivery of legal aid, thereby providing greater access to justice for the citizens of Western Australia. In so doing, it is consistent with this Government's commitment to equality before the law and the availability of legal services to every person who needs them. Funding for legal aid is a finite resource, therefore it is clear that funding alone is not the long term solution to the inability of legal aid to satisfy demand. A commitment to forging new directions in legal and administrative processes must be made. This Bill embodies changes which will enable flexible and imaginative ways in which to provide legal aid services.

The Legal Aid Commission has recently adopted the major recommendations of the report by the national legal aid advisory committee titled "Legal Aid for the Australian Community". One of the principal recommendations of that report was the adoption of the solution-orientated rather than the services-orientated program management of the past; in other words, a proactive rather than a reactive approach to the delivery of legal aid. Such an approach represents a fundamental change.

Already the Legal Aid Commission has achieved change by adopting this new approach. This has resulted in an increase of 50 per cent in dollar terms for new grants of aid over the past three years. It is the only commission in Australia to have done so; it has streamlined administration within the commission resulting in considerable cost savings; and it has implemented self-help schemes, such as do-it-yourself divorce, which assist people wanting to learn how the law works and how they can use it cost efficiently and effectively. These initiatives have received an enthusiastic response from the public.

Despite the downturn in the economy and a fixed one line appropriation budget, the commission has been able to achieve these changes from within its existing budget. Greater savings and greater access to commission services can be provided by giving the commission greater flexibility in the ways it is able to contract and pay for legal or other services.

Proposed new section 14 allows the Director of Legal Aid to make arrangements with the private profession which will open its doors for greater access to legal aid services. Until now, the inflexibility of section 14 has meant that the commission has been precluded from entering into various arrangements for payment. The proposed new section will allow the director to consider any reasonable offer put to him by private lawyers which can help people gain access to justice. In addition, new arrangements can be entered into which will mean that people who at present do not qualify for legal aid can be assisted.

Under proposed new section 14, coupled with amendments to sections 41 and 42, the commission will be able to encourage various initiatives by paying for some part of the services provided. For example, if a practitioner is willing to undertake a personal injuries case with professional fees deferred until the conclusion of the case, but cannot afford to pay for the doctor's report, the commission will be able to make a grant of aid limited to the doctor's report fee. In this way the applicant receives a grant of aid which under the current Act he or she is not able to receive. Also, the commission's costs are limited to the doctor's fee. The proposed amendments to sections 41 and 42 complement the amendments to section 14.

Occasions will arise in the future on which payments made direct by the client to the legal practitioner may be desirable. Section 41 does not currently allow a private practitioner to bill a client where a grant of aid has been made. There are good reasons for this and the section is a sensible protection for the client. However, it can work adversely to the interests of the client, lawyer and the commission. Recently, a legally aided client won Lotto. Rather than being able to bill the client for the work done under the legal aid grant, the lawyer had to bill the commission even though the client could now afford to pay. The new amendment allows the director to permit a client to make payment to the lawyer, thus releasing the commission from its obligation to pay. As the commission controls the grant of aid, the client's interests are always protected.

At present, section 39 allows the commission to impose contributions on those who can afford to pay towards the cost of the service provided. Where a person is asset rich but cash poor, the commission frequently takes mortgages over land. The present system of mortgages is inefficient and cumbersome and sees the commission having to pay stamp duty on mortgages. The amendment allows the commission to take a charge over land. It also allows the commission to impose a condition whereby payment of a specified sum by the client is contingent upon a successful outcome of the client's case. This contingency fee, coupled with the amendments to sections 14, 41 and 42, will allow for different arrangements which will benefit the client, the practitioner and the commission, and which will give many more people access to legal aid and legal services. Clients who feel aggrieved by the imposition of these conditions will be able to have the decision reviewed by way of reconsideration or review by an independent committee.

With these initiatives to provide for greater flexibility in granting aid, a corresponding need also exists for the commission to ensure that legal aid authorities and review committees grant aid in accordance with the relevant commission guidelines and policies. The current structure of the Act does not prevent review committees, comprising independent practitioners and others, from granting aid in disregard of necessary financial constraints and sometimes in inappropriate cases.

Proposed sections 15(1)(i) and 50(8) will require review committees to operate within appropriate guidelines laid down by the commission thus ensuring proper consideration of

the needs of other applicants. In order to ensure that practitioners are carrying out legal aid assignments in the most economical and efficient way, proposed section 50B will require a practitioner to report to the commission at least every six months during the continuation of the assignment, or sooner if required to do so. To deter applicants from making false representations as to their eligibility for aid, an amendment to section 65 allows for increased penalties and recovery of losses by the legal aid fund.

A significant amendment is contained in the proposed new section 34A which will enable the commission to provide services more effectively in parts of the State in which the services of legal practitioners are not available. It would enable the Minister to authorise a paralegal - being a staff member of the commission or any other person - to perform certain services which would be performed by a lawyer if one were available. The commission will provide comprehensive training for any persons authorised to act under this provision and will fully support them in their work. There are restrictions on the services which can be carried out. The paralegal cannot charge for services or appear in the district court, Supreme Court or Court of Criminal Appeal. The authorisation must specify the parts of the State where the services may be performed, and the matters, proceedings and courts in respect of which services are permitted. As a further safeguard, the authority may be revoked at any time.

This amendment will have particular value in remote areas of the State where, for example, people may be held in custody pending a simple application for bail or a remand while they wait for a lawyer. Throughout the north west and other remote areas, justices of the peace must deal with minor offences without the assistance of a lawyer since private lawyers are not available and the cost to the Legal Aid Commission would be prohibitive. This provision is designed to meet, in part, that need. It is not proposed that authorisations will be granted where legal practitioners are readily available.

The amendment to section 51A is merely to delete the reference to the now defunct Commonwealth council and replace it with a reference to the relevant Commonwealth agencies regarding legal aid.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Peter Foss.

MOTION - FRANCOIS PERON NATIONAL PARK, CREATION SUPPORT

Assembly's Message

Message from the Assembly received and read requesting concurrence in the following resolution -

> That the House support the creation of the Francois Peron National Park on the boundaries defined in the plan tabled in the House on 26 November 1992.

NATIONAL RAIL CORPORATION AGREEMENT BILL

Second Reading

Referral to Standing Committee on Legislation

Debate resumed from 26 November.

Hon E.J. Charlton was granted leave to withdraw his motion to refer the National Rail Corporation Agreement Bill to the Standing Committee on Legislation.

Second Reading Resumed

HON E.J. CHARLTON (Agricultural) [5.45 pm]: A number of developments have overtaken us since my motion last week to refer the Bill to the Legislation Committee. The consequences of an agreement setting up a National Rail Corporation would have a substantial effect not only on the Government of Western Australia but also on the entire State. As mentioned in previous debate the Opposition is very concerned about how those consequences relate to Westrail and its employees, and other aspects of the legislation. Therefore we felt the need to take action.

This legislation was introduced into Parliament in November 1991 and had not progressed. On a number of occasions we were led to believe that the Government would proceed with

the legislation but that did not occur. I have withdrawn my motion to refer the Bill to the Legislation Committee as a result of correspondence received by the Minister for Transport, Hon Pam Beggs, from Federal, New South Wales and Victorian Ministers indicating that the shareholders in the National Rail Corporation - that is, the States of New South Wales and Victoria and the Commonwealth Government - have agreed that Western Australia should have the option over the next few months of deciding whether to remain a shareholder or to withdraw from the corporation. Should that occur, Western Australia would revert to the status of "other State". The coalition acknowledges that that is a far better situation than the one we faced until yesterday. Had the legislation passed without this agreement Western Australia would have been locked into a position of having no chance, even with a change of Government, of taking any action to safeguard the interests of Western Australia.

I refer now to a letter from the Commonwealth Minister for Land Transport, Bob Brown, to our State Minister for Transport. The letter reads -

> Dear Minister
>
> I understand that the National Rail Corporation Bill has been passed by the Legislative Assembly in the Western Australian Parliament and is currently being considered in the Legislative Council. The successful passage of the Bill through the Western Australian Parliament will allow the Corporation's shareholders agreement to become fully operational including the amendment provisions of that agreement [Clause 8(1)].
>
> I am prepared to provide an undertaking that following enactment of the National Rail Corporation Bill by the Western Australian Parliament, I will agree to a request from the Government of Western Australia, if made within a reasonable time, which I would suggest be before 30 June 1993, to amend the Shareholders' Agreement to convert Western Australia's status to that of "Other State". I understand other shareholders are willing to give the same undertaking.
>
> Should the Western Australian Government make such a request, any shares issued to Western Australia under clause 6(1)(b) of the Shareholders' Agreement will be cancelled. I understand that National Rail agrees to the course of action.
>
> I understand also that the Company has agreed that up to 30 June 1993 it would not seek the transfer of any assets of Western Australia to National Rail. Finalisation of any schedule of payments under Clause 5(4)(c) of the Agreement would require a determination by the Western Australian Government to maintain its status as an equity holder in the Corporation.
>
> Western Australia would, of course, retain its Director on the Board of the Corporation until any amendment to the Shareholders Agreement were to take effect.

That letter was from Alan Brown, Minister for Public Transport in Victoria. I also received copies of exactly the same letter from Bruce Baird, Minister for Transport in New South Wales, and Bob Brown, the Federal Minister for Land Transport. After receiving those letters the coalition sought a legal opinion that might substantiate the advice contained in those letters; that is, Western Australia could withdraw from the agreement any time before 30 June 1993. The opinion confirmed the undertakings given by those Ministers, and that such a request for withdrawal from the agreement was in order. The coalition now feels confident that it can proceed with the National Rail Corporation Agreement Bill so that the corporation can come into effect in January 1993. In the ensuing months, the current Government or, if there is a change of Government, the coalition will have the opportunity to ensure that Western Australia is in the best possible position to take advantage of whichever status it decides is in the State's best interests; that is, whether we should retain shareholder status or whether we follow Queensland and take up the "other State" option. The Government of Western Australia will negotiate its position in consultation with the corporation.

Members will be aware that the agreement to set up the NRC offers many benefits for the nation. The corporation will be responsible for the movement of freight along the east-west corridor. The standard of rail transport on the eastern seaboard of Australia is unacceptable, whereas Westrail has achieved a significant improvement in its operations over recent years. That has been achieved at the expense of restricting its cartage of a number of freight

components, and that must be addressed in the future. However the setting up of the NRC is significant because everyone acknowledges that benefits will flow from changes to work practices and crew levels resulting in efficiencies from having one operation coast to coast. It is one move in the reform process that this nation is crying out for.

The coalition has always supported the concept of the NRC, but it has concerns associated with its implementation. The coalition is aware of what will happen to Westrail's component of freight between Fremantle, Kwinana, Kewdale and Kalgoorlie. National Rail is currently responsible for freight east of Kalgoorlie, and Westrail is responsible for the line between Kalgoorlie and Perth. Once the corporation is set up staff levels will change because Westrail will no longer be automatically responsible for the line from Kalgoorlie to Perth. It will not automatically be responsible for maintenance services to rolling stock, the line, the manufacture of rolling stock and associated service requirements. No answers were provided to the coalition about that key component of the agreement. The coalition was not told because the Government did not know. The Government has not advised what the consequences of the agreement will be on staffing levels at Westrail. The loss of interstate freight will result in a downturn in the number of personnel required by Westrail for movement of its own freight between Kalgoorlie and Perth. The corporation will view the freight between Kalgoorlie and Perth as interstate freight. Westrail will still carry its own component of freight within Western Australia.

Hon Fred McKenzie: Staff reductions have been going on for the past 15 to 20 years, and it is tragic.

Hon E.J. CHARLTON: Yes, they have, and that is tragic. We must reach a balance between efficiencies which cause a movement of people out of an industry or service and the benefits that will accrue to the economy. Nothing should be looked upon as being sacred. We must all look to the future because nothing ever stays the same. We must ensure that the benefits of those changes are felt across the board. The tragedy of the changes which were made to Westrail, and to which Hon Fred McKenzie referred, is that the benefits did not flow on across the board to enable greater use of Westrail's services. One other component has militated against those benefits taking place. Within Mr McKenzie's electorate is the Midland Workshops. The Government has tried to keep personnel employed at the Midland Workshops when everyone knows they have not been given the opportunity to produce the goods for the benefit of not only the people who work there but also the State. We have had opposing situations that have militated against the benefits to Westrail overall. We have made the changes in one section, but we have not been able to make the changes across the board so that we have a lean, mean machine.

Hon Fred McKenzie: It is a lean, mean machine. Private enterprise does not want any competition.

Sitting suspended from 6.00 to 7.30 pm

Hon E.J. CHARLTON: Prior to the dinner suspension a slight diversion had occurred in the debate when Hon Fred McKenzie sought to ascertain whether the railway system was either alive and well or being unfairly treated, or both. I do not know why Hon Fred McKenzie, a champion of the railway system, does not spend more time visiting country areas and speaking to the people who continually demand that this State transport more freight by rail. Before he reminds me, as he has done on many occasions, that some of the country people demanded deregulation, I acknowledge that that occurred in some cases.

Members of the coalition can accept the principles involved in the agreement and the legislation package for a number of reasons, mainly as a consequence of the compliance by the other States and the Commonwealth to allow Western Australia to deal with its particular situation. It is interesting to note the witnesses contained on page 29 of schedule 1 of the Bill where it states -

> IN WITNESS WHEREOF this Agreement has been executed on behalf of the parties respectively as at the day and year above written.

It is witnessed by a number of fairly influential people, or at least people who considered themselves at that time to be influential. The then Prime Minister Bob Hawke, Hon Nicholas Frank Greiner and Mrs Joan Kirner have all gone. Wayne Goss and Carmen Lawrence also witnessed the Bill.

Hon Mark Nevill: Carmen Lawrence will be here after Mr Goss.

Hon E.J. CHARLTON: Wayne Goss is still there but Carmen Lawrence is about to go. That demonstrates the passage of time and the consequences of actions in our society. I mentioned earlier that people can be sure of only one thing in life; that is, nothing ever stays the same. Members certainly do not have to go past that page in this agreement to have that brought home in a very telling fashion.

In addition to the contents of the letters to which I referred earlier, significant changes were made in the other place to the Western Australian aspects of the Bill. The coalition had serious concerns about a number of other aspects. The main concern was the mechanism that allowed a sale of an asset which the Minister may approve. That is a totally unacceptable mechanism. The coalition required that the Parliament be required to approve the sale to the corporation of any assets of this State. As a consequence of that demand by the coalition, clause 14 now states -

> Rail freight assets of the State consisting of or including rail track, rolling stock, locomotives or terminal land, are not to be disposed of or transferred to the company under section 9(a) or by transfer order or by any other method unless each House of Parliament has passed a resolution approving of the disposal or transfer.

That is a significant aspect of the legislation before the House. The legislation did not contain that requirement when it was introduced by the Government in the other place. The Legislative Assembly also agreed in clause 17 that -

> (1) The Minister is to cause to be laid before each House of Parliament copies of the following -
>
> (a) the Best Practice Industrial Agreements referred to in the Agreement;
>
> (b) an agreement with the relevant unions on the terms and conditions for the relocation, redeployment or voluntary redundancy of employees of the Commission affected by the implementation of the Agreement;
>
> (c) the findings of a review of any adverse impacts on country towns of changes to the Commission's work force arising from the implementation of the Agreement and proposed means of ameliorating any such impacts;
>
> (d) agreements between the State (as defined in section 8(1)) and the Company concerning the leasing of, or access to, rail freight assets under the Agreement.
>
> (2) The information mentioned in subsection (1) is to be laid before each House as soon as is practicable, and, in a case to which subsection (1)(a), (b) or (d) applies, not later than 15 sitting days of the House after the relevant agreement is made.
>
> (3) This section ceases to have effect at the end of the Establishment Period as defined in the Agreement.

Those amendments were agreed to by the Government and obviously will affect the consequences of the agreement if Western Australia becomes a shareholder in the National Rail Corporation. All members must be keen to know the make-up of the corporation and the major features of the intergovernmental agreement. I will not go into all of them, but it is important that I refer to a few points. The document states -

> Before the end of the first three years of operation of the NRC, the State and Commonwealth rail authorities are obliged to provide the NRC with access to all assets it requires to operate interstate rail services. Such access can be provided through transfer of ownership, long term lease or other appropriate arrangements.

As I mentioned a moment ago, it is imperative that both Houses of Parliament approve that before it is allowed to take place. It continues -

> The NRC will be governed by a Board consisting of nine Directors. Western Australia is entitled to nominate one Director for as long as the NRC remains owned by the signatories to the Agreement.

The other point that I want to raise states -

Western Australia is required to contribute a total of $8 million in cash payments to the NRC according to the following timetable:

1993/94; $1m 1994/95 $2m 1995/96; $2.5m 1996/97; $2.5m

Those are the integral parts of the financial aspects of the agreement and Western Australia's shareholding component. Consideration of all aspects of the National Rail Corporation agreement, as I stated at the outset, has been long and drawn out since the agreement was brought to this Parliament. It will continue to be so while all of the events involved in its setting up are dealt with because everyone knows that a number of things have to happen whether it comes into effect on 1 January or at a later date. It will not be a case of one day we have Westrail, the Commonwealth and the other State authorities and the next morning we wake up and have a brand new, you-beaut National Rail Corporation. A progression of activities will take place over a long period including the ordering and paperwork which will be done by a single authority, negotiations on industrial matters, consideration of other agreements, and so the list goes on. The whole thing will be brought into place over a number of years. In the next six months Western Australia will be vitally involved in determining the effects of those activities on Western Australia. We will have to be sure what will be the future of Westrail and more important what will be the financial implications of the National Rail Corporation. During that time we will decide whether we will continue along the path laid down in the agreement.

Clause 8(1) provides an opportunity for a variation of the agreement. Therefore, any changes to be made to the agreement will have to be put in place first; that is, the legislation must be approved so that Western Australia can take advantage of the flexibility provided in the legislation. As we go through the clauses of the Bill we will be able to question the Parliamentary Secretary about matters that concern us and members will be able to obtain information on the detail of the agreement.

I acknowledge also that, in my discussions in the last couple of days with my colleagues in the coalition and with the Minister and Hon Mark Nevill, we have been able to reach a position where, for the first time in over 12 months, we have an idea about where we are all going. That was not the case until that time. It is a tragedy that something as crucial as this has been discussed so little with the Opposition. This legislation was born in a Premiers' Conference in a similar way to the national licensing scheme and a number of other pieces of legislation. It seems that the leaders of the States and the Commonwealth came together and worked out how they could best have an impact on voters of the nation. They then put forward a deal and went back to their various jurisdictions to work out how they would implement it, without first deciding the financial implications of it. We saw it happen with the black spots program and with the proposed licensing scheme whereby we appointed a commission. We still do not know what the outcome of that legislation will be and certainly Western Australia would have been a loser if it had gone down that path.

It is clear that the Government, having got itself into this situation, has been trying to sort out the consequences of it ever since and has not been able to do it. It is very wrong for the Government to try to tell this side of the House, as it has on other issues, that it has not been supportive of the legislation and has held it up, when the Government, in its discussions with a number of people, has made it well known both privately and in public that questions have not been answered. Westrail personnel do not know how many of them will be displaced by this legislation. There is a very real reason for that and that is that the corporation, when it is fully operational, will determine how many of Westrail's work force will be employed in Western Australia's section; that is, from Kalgoorlie to Perth. In other words, offers will be made to crews and other people who are currently employed by Westrail to be responsible for that section of the interstate transport component. Only then will it be decided how many of them will be left without jobs. When that happens it will be very important that we determine the ramifications and the action required to be taken by Westrail. The other important factor, which is obviously the point Hon Fred McKenzie referred to earlier, is that over the years Governments have made decisions about the displacement of personnel in country areas with a great deal more ease than they would have made similar decisions involving personnel in the metropolitan area. We have seen in Westrail not only the demise of the rail traffic operations but also a reduction in the number of personnel employed by Westrail in country Western Australia. The same cannot be said about changes made in city areas. In fact, people have retained their positions simply because of the political

consequences of doing otherwise, and decisions have not been made on the basis of the economics of the situation.

When the time comes for the corporation to hire people from Westrail it is important that we, as parliamentarians in Western Australia, whether or not we are in Government, ensure that towns such as Northam, Merredin and Kalgoorlie are given proper consideration. If we stand idly by and allow the corporation to make its decisions, it could employ few people from Western Australia and hire the majority from other States and locate them in Kalgoorlie. Those people currently employed at Northam or Merredin may under those circumstances not be given jobs with the corporation and they also have no future with Westrail. Therefore, they will be forced to take a redundancy package or they will be relocated. That would be bad for their families who have made their homes in and made a contribution to those towns. More importantly, when those families move from the regions it has a devastating effect. We must ensure that we make responsible decisions in this matter and we must guarantee that these places have something to offer.

People should not be relocated in country towns and given jobs just to make them happy; it should be done for valid, economically viable reasons. We must employ more people in country Western Australia because that is the best and most economical place in which to do so. Instead of the regionalisation that is taking place, because of an economic theory that has obviously proved a failure, we should look at the contribution those towns and the service industries can make towards the National Rail Corporation. We must ensure people are employed in the track maintenance section and on other activities associated with an interstate rail network. We must ensure that people are given meaningful employment in these areas. Why should we centralise everything in Kalgoorlie and Perth, and have nothing in between? It is just as easy to locate these people somewhere else along the track, provided they have the backup services and a whole range of facilities. That will be in the best interest of everyone.

Hon Kim Chance: It is probably more efficient.

Hon E.J. CHARLTON: Yes, that is true. Often Governments make decisions to centralise certain activities at one point on the basis of the very close operation of that organisation. Instead, they should consider the extended benefits. I refer, for example, to the activities of the Police Department, the Ministry of Education, the Department of Agriculture, and other Government departments. They each receive their Budget allocations for the year and determine how best to utilise that bag full of money. They make their decisions on expending that money in their best interests. The Government has failed to look at the ramifications of these moves on other businesses and service industries across the board. When the Police Department makes a decision about regionalisation, does it take into account the effect it will have on the Ministry of Education or medical services in the area?

We must change our attitude in this State and we must consider the effects all down the line of placing various departments and authorities in certain areas of the State. In this case everyone knows - it is very much to the fore as Hon Kim Chance knows - that towns such as Northam and Merredin must be given the first opportunity to make a contribution to the National Rail Corporation in the many areas of responsibility that will be established. It will be done in two ways: Obviously the corporation will be a lean, mean machine and that is what we all want. However, the Western Australian Government, other State Governments and the Commonwealth Government must act to pick up the pieces following the establishment of the National Rail Corporation. We cannot maintain the existing mentality in this State of allowing deregulation to take place without giving due recognition and consideration to the people in the work force who may be affected by these moves. For example, we cannot simply send the people who will lose their jobs to Collie to work on the power stations or to Kalgoorlie or other places. It is all very well for people in the Mining and Pastoral Region to take advantage of these matters but it is time that the Agricultural Region - where the real people live - had some influence on these events.

Hon Tom Helm interjected.

Hon E.J. CHARLTON: Hon Tom Helm will probably need someone to show him how to lean on it because I am not sure he is capable of doing that now.

Hon P.G. Pendal: He came into the Parliament with the title of rigger.

Hon E.J. CHARLTON: Hon Tom Helm may have come in as a rigger but he found the position was so strong for riggers in the Labor Party that he has not been able to match it since!

After all the debate that has taken place outside and inside the Parliament on this legislation, we are in a position to look forward to dealing positively with those people who will be directly affected by the legislation. The corporation can be put in place and given an opportunity to further develop. After the next election, depending on what happens at that election, everyone in this State will have a further option to consider the matter as a result of the eleventh hour decision by the Commonwealth and the other States to allow Western Australia the flexibility to move out of the shareholding agreement and into what is termed an "other State" capacity.

We support the legislation. However, we will seek some specific answers and clarification at the Committee stage. We will require the Parliamentary Secretary to confirm that the Government acknowledges that communication from the two States and the Commonwealth, which I read into *Hansard* earlier, is absolute, and the Minister for Transport in the other place to acknowledge that that is the basis upon which we will agree to this legislation, because, as everyone knows, had those letters from those respective Ministers not come forward, we would not have agreed to this legislation at this stage. We ask the Parliamentary Secretary to acknowledge the legal advice which we have received and accepted that those letters are binding upon the other States and the Commonwealth; that Queensland is agreeable; and that if Western Australia requests by 30 June a change to this agreement, that will be possible. We know that such agreements are not watertight when it comes to the courts, and that was acknowledged in the legal opinion which we received. However, the legal opinion stressed that it is more important to the coalition that this agreement be agreed to at the political level; in other words, that those States and the Commonwealth, together with the current Government of Western Australia, acknowledge totally that those letters will be binding upon the future progress of this legislation. I ask the Parliamentary Secretary to make it clear in his comments that he acknowledges that the interpretation which we have put upon it is binding upon the Government and the other shareholders.

HON D.J. WORDSWORTH (Agricultural) [8.03 pm]: I am not ashamed to say that I am against the National Rail Corporation Agreement Bill, mainly because I do not believe a National Rail Corporation will benefit Western Australia and, more particularly, the electorate which I serve, the Agricultural Region. Hon Eric Charlton outlined to the House the latest correspondence from other Ministers for Transport, which would give the State the opportunity to opt out of this agreement should it desire. I hope in the next 15 minutes to give some reasons why this State should opt out of this agreement, certainly in the short term. It is not difficult to build up a spirit of nationalism, or almost a sense of guilt, about the railways, where each State as a colonial entity built its railway with different gauges which did not meet at the right places and where we had all sorts of conglomeration of rail. That may be partly so, but we have seen in Western Australia that we can put things right.

I turn now to how the concept of the National Rail Corporation came into being. The NRC resulted from the September 1990 meeting of Australian Transport Advisory Council Ministers, comprising the State Ministers for Transport and the Federal Minister for Transport, which proposed to "set up an independent task force to develop detailed proposals and recommendations to establish a fully commercial National Rail Freight Corporation". I am quoting from page 3 of the document entitled, "Report of the National Rail Freight Initiative Task Force to the 5 April 1991 meeting of the Australian Transport Advisory Council", dated 21 March 1991, which states that the terms of reference of that task force did not include "the impact of the NRFC on the other businesses of rail systems". In other words, all they thought of was one thing - interstate rail - and to hell with the rest. The fundamental question which the task force was required to address was whether a national rail freight corporation could be commercially viable. Four case studies were considered, and the report summarises them at page 5, where it states that "the NRFC is a marginal prospect commercially, but it is a considerable improvement on the alternative of separate interstate rail freight systems". The report stated further that "after an establishment phase the NRFC can be commercially viable". Members must admit that they are not very strong words. The report states at page 6 that, "Crucial to the commercial viability of the NRFC are improvements in productivity and operational efficiency." It stated that these improvements will require changes in work practices, job design and work organisation.

The task force related current practice in Australia to world standard efficient costs, which would give an average cost saving of 35 per cent, and a specific cost efficiency of between 20 per cent and 50 per cent. In other words, the whole thing was very doubtful anyway, but it relied entirely upon major changes in the efficiency of work practices. The document entitled "National Rail Corporation Ltd, Statement of Corporate Intent", dated July 1992, illustrates labour productivity and shows the productivity per net tonne kilometres per employee, which in Australia is 1.5 million, in Canada is 3.5 million, and in the United States is between 7.5 million and nine million. That makes one realise just how efficient our railways are per employee. That is little wonder when we realise the number that we must have had in Western Australia about 15 years ago, compared with today when we carry far more freight. This was an inquiry on freight.

Hon Fred McKenzie: There is bulk and other freight.

Hon D.J. WORDSWORTH: That is right; I am not denying that.

Hon Fred McKenzie: The world figures you quoted may relate to bulk freight - coal, for example.

Hon D.J. WORDSWORTH: Undoubtedly.

Hon Fred McKenzie: That shows how misleading they can be.

Hon D.J. WORDSWORTH: If that is the way it is done, maybe we should do the same.

Hon Fred McKenzie: You must compare like with like.

Hon D.J. WORDSWORTH: Page 4 of the task force report indicates that the task force's objective was to determine whether the proposals were realistic and achievable. The proposition was knocked together in eight weeks, yet it was going to change a nation! Page 7 refers to infrastructure arrangements as follows -

> . . . to move progressively to control the rail freight permanent way outside of the major metropolitan centres where interstate freight is the predominant user. This control could be effected by outright ownership or by leasing arrangements with the various rail systems (and the rail systems negotiating running rights with the corporation).

It also states -

> The NRCS implementation will take over all the major capital city interstate rail freight terminals, with effect from 1 October 1991, moving to full operation over a short period.

I am glad that that did not take place. What was planned to happen to Westrail's Kewdale terminal when the national freight body took over its operation? Would Westrail have to lease part of it back? What the devil was going to happen? Was the NRFC to pick the eyes out of the facilities and let the State pick up what was left? Was the corporation to do what it wanted? If one is buying a business, one does not pick the eyes out of it and leave the scraps for the previous owner to do something with. That is what was intended to happen to Western Australia.

I reiterate that the report did not include any impact analysis of State railways. The fundamental question was whether the NRFC could be financially viable. It was found that the NRFC was "marginally viable" and "can be" commercially viable. However, it was crucial that cost efficiencies of between 35 per cent to 50 per cent be achieved. Unfortunately, the Prime Minister, when in need of countering the Federal Opposition's proposal, jumped in with his One Nation announcement. He saw the national railways as a great flagship and a key to his plan. In eight weeks a few ministerial and railway staff, probably not even meeting together and operating by telephone and fax, knocked the proposal together. The One Nation package was not soundly based and it is now in a shambles. It predicted a growth rate of four per cent, but that figure has now dropped to well below half of that.

Spending on the NRFC was one of the keys to the package, but the allocation was not spent and had to be reallocated; also, that reallocation had nothing to do with the Bill not being passed through this House. It was mainly because the groundwork and planning was not completed. The planners of the proposal had great ideas about adding a standard gauge rail

line here and a new rail terminal there; however, these were little more than ideas jotted on paper. No wonder they could not be constructed. It was first necessary to go out and survey the proposal before any great number of staff could be employed in construction.

The NRFC proposal was picked up too quickly and the timetable for its implementation was far too tight. According to this schedule, the Kewdale terminal should already have been taken over. Of course, Westrail did not have any time in which to plan how it would run its system if this were done. The main argument in the task force report is that if the railway lines and terminals are owned, one can run a more efficient service. It wanted to own them all. That is great for the NRC. However, what is sauce for the goose is sauce for the gander: How was Westrail to run its service efficiently when an Eastern States body owned Westrail's lines and communications? The proposal would have put Westrail in a difficult position. If the NRFC were to take over the rail line from Kalgoorlie to Perth, how would we use the line up to Kalgoorlie to transport down to Esperance?

Hon Mark Nevill: It involves an access arrangement within the agreement.

Hon D.J. WORDSWORTH: Yes, but it is all right for the NRFC to own the equipment -

Hon Mark Nevill: It works both ways.

Hon D.J. WORDSWORTH: That is right. That is the point I am making. It is far more economical and practical for Westrail to run its service in its current fashion than to follow the NRC proposal. Westrail has much more traffic using the facilities than would the NRC. Currently Westrail owns the facilities and it works very well. Improvements can be made, and the report indicates that if the terminals and lines are owned, the operator is able to achieve better results. In that case the operator is able to speak to the people who wish to put goods onto the trains. I have never seen who delivers the goods at the terminals, but I am sure an influential person from a corporation like BHP or Ford Motors will not bother going down to Kewdale to put goods such as cars on the train. The proposal may be a good idea for the NRC, but its effects on our State railway will be shocking. I make no bones about it: I am protective of Westrail. This goes back to when I was Minister for Transport in 1977.

Hon P.G. Pendal: And a very distinguished period it was too!

Hon D.J. WORDSWORTH: I remember being called into Sir Charles Court's office and being asked which portfolio I would like. I said Transport. This was due to inefficiencies transport caused to farming in Esperance. I told him how hard it was to have a shearing shed transported to Esperance in that it was necessary to change trains on that trip. Also, it was not possible to use road transport at that time.

Hon Sam Piantadosi: So you had a vested interest.

Hon D.J. WORDSWORTH: There is nothing wrong with a vested interest!

Hon J.M. Berinson: It is amazing how small are the issues which can change the course of human history!

Hon D.J. WORDSWORTH: I will not become personal with the Attorney General as I could say the same thing in his direction.

Sir Charles Court said I was rather big for my boots and that the Transport portfolio was a major position which usually went to the Deputy Premier. Obviously the Deputy Premier did not want that portfolio at the time, and I was landed with it. To the then Premier's and Hon Norman Moore's consternation, my first action was to close the line to Meekatharra after the Premier had promised he would not do so.

Hon Fred McKenzie: You were responsible for deregulation.

Hon D.J. WORDSWORTH: I was entirely responsible for deregulation.

Hon Fred McKenzie interjected.

Hon D.J. WORDSWORTH: I do not mind spelling it out. I was responsible for the closure of the Meekatharra railway line.

Hon Fred McKenzie interjected.

Hon D.J. WORDSWORTH: The railway line to Meekatharra was laid on the bare ground; it did not have the stability of blue metal under the old railway sleepers. The train, because of the poor track, used to travel at 20 miles an hour. Following the closure, the freight rates

were cut in half. However, two groups of people were affected by that. At that stage one could send a case of fruit from the south west to anywhere in Western Australia for $1. Those who bottled fruit in Meekatharra were disappointed in the move. The shepherds were also affected because one could send a dog to anywhere in Western Australia for $1; therefore, anyone who travelled with a dog did not like me very much.

Hon P.G. Pendal: A dog?

Hon D.J. WORDSWORTH: Yes; a dog. A dog was very important to shepherds, who had a special concession for their dogs. The major change at the time was to get freight into Newman. The member from the Pilbara might be interested that at that stage all the freight to beyond Geraldton had to be sent by rail, where at the end of the railway line it was picked up by road transport and carted to Newman.

Hon Mark Nevill: You had a soft spot for railways.

Hon D.J. WORDSWORTH: I had a soft spot; so I said it could be carted all the way by road. That is where regulations really broke down. The previously mentioned refrigerated traffic also had a bearing on things. Until then Westrail was a common carrier and as such irrespective of whether someone freighted an ice-cream or an elephant, the person at the railway station had to take it; there was no choice.

Hon Sam Piantadosi: Did you have to take Mr Pendal as well?

Hon D.J. WORDSWORTH: It could have been Mr Pendal or a bag of sewage. Whatever it was, it had to go by Westrail and no-one was able to compete, in spite of the fact that the refrigerated traffic was carried in old wooden wagons which were repaired practically every month at Midland.

Hon Mark Nevill: They were part of our heritage.

Hon D.J. WORDSWORTH: That is true. As a result of refrigeration it was necessary to have a refrigerator mechanic, carpenters and goodness knows who else at the workshops to repair the old wagons.

Hon Fred McKenzie: They were the best refrigerator wagons in the world.

Hon D.J. WORDSWORTH: They may have been, but the trains used to have -

Hon Fred McKenzie: They were not constructed of wood; they finished up being constructed of steel. Sure, some of them were very old; they were the ones they showed you, and you fell for it. They didn't ask me.

Hon D.J. WORDSWORTH: Westrail was required to deliver the refrigerator traffic to every country town without competition. The trains had to visit the towns twice a week and in some towns they would arrive at midnight when out would go the refrigerator traffic on to the side of the railway line for the storekeeper to collect the next morning at 8 o'clock.

Hon Mark Nevill interjected.

Hon D.J. WORDSWORTH: Perhaps it is; I do not know. I recall that it cost every person in the country 1¢ more every week because I took refrigerator traffic off rail and put it on the road. The interesting thing is that until then all one could find in the country were defrosted ice-creams which were freighted in canvas bags. There was no such thing as frozen peas or such items because they could not stand that sort of traffic. However, suddenly with delivery by manufacturers such as Peters (W.A.) Ltd and others to country stores, supermarkets with freezer cabinets were introduced into country towns, the same as were in the city. As a result, Westrail was not required to visit every town twice a week and road transport took its place. I admit that in the end trains would carry only seven tonne loads to country towns, and now that has been increased. However, Westrail is now making profits and undoubtedly country people are better served.

Hon Sam Piantadosi: It has been good management and good Government.

Hon D.J. WORDSWORTH: It has. I am pleased to say that the Labor Party carried on with the SWATS report, which consisted of 37 volumes. The unions knew well in advance what was going to happen and they helped to formulate that policy. It took some time to complete, but I believe that process has gone very smoothly. I know that Hon Fred McKenzie weeps a little for the staff who lost their jobs. However, they were aware of what

was going to happen. Negotiations took place with the unions for workers' retirement. Generally speaking, it worked out fairly well.

What a pity the rest of Australia did not do the same. Today, the railways of Australia lose $4 billion a year. Here we are worried about the balance of payments of $13 billion for this year when $4 billion of it is as a result of the railways. What do we get out of that $4 billion? Every other railway could have been reformed in the same way as Westrail and, as a result, they would have been making a profit instead of losses. The national rail system costs every family in Australia $2 a day. I do not blame the Federal Government for deciding it must do something about that, but it went about it in the wrong direction. The loss on interstate freight is approximately $300 million a year out of that $4 billion. Therefore this legislation is tackling only a minor, and probably successful, part of the rail operation; that is, the interstate rail. I acknowledge that it can be improved more, but it is not the real problem of Australia. The problem was that all the other States, rather than closing down the rail services when road took over, allowed road transport to compete and the railways thought they could do the same.

Hon Fred McKenzie: But not on a level playing field, and you know that.

Hon D.J. WORDSWORTH: That is an interesting aspect. We might as well deal with that matter fairly quickly. National Rail Corporation's "Statement of Corporate Intent" - let the farmers and everyone else know -

Hon Fred McKenzie: You know that I am talking about road user charges.

Hon D.J. WORDSWORTH: No. This National Rail Corporation publication refers to corporate goals and key objectives, the second of which is to increase profitable market share by arresting the decline in average freight rates. Is that not great? The poor cockies are trying to make a living while a Government and a corporation are doing their best to make sure the freight rates are not reduced. Hon Fred McKenzie is suggesting that everyone will be on a level playing field if the freight rate is increased.

Hon Fred McKenzie interjected.

Hon D.J. WORDSWORTH: That is right. Why should there be a corporate plan saying freight rates should be increased? I believe this corporate plan is all part of the Labor Party's policy. It has listened to people like Hon Fred McKenzie for too long. That is why it wants to increase the registration fees of vehicles and add charges to the roads and fuel in order to give the railways a fair go. I believe the railways will get a fair go if they are treated in exactly the same way as Westrail, which became profitable and which still delivers the goods. Smaller containers are delivered far more efficiently by road. If the rest of Australia did that we would get somewhere.

Hon Fred McKenzie: I am objecting to subsidising the big rigs on the road.

Hon D.J. WORDSWORTH: I assure Hon Fred McKenzie they are not being subsidised. So many people say that the big rigs are destroying the roads. However, the Main Roads Department has the ability to limit the loading on road trucks. The roads do not have to be made any bigger or stronger simply because there are a few more road trucks. With respect to putting on an extra 10 or 20 road trains from say Esperance to Perth, Main Roads would laugh and say that that road was capable of handling hundreds of trucks a day as they do in Europe or anywhere else. The Government built the road, why not use it? Most of our roads are quite capable of taking the extra road transport without affecting anything; why not use them?

At times Westrail goes off and buys freight road trucks when it wants to compete in a tender.

A Government member: Talk about the level playing fields and the poor old cockies. Is it not about time they got their act together and came into the twenty-first century rather than staying in the eighteenth and nineteenth centuries? Hon Bill Stretch knows what I am talking about.

Hon D.J. WORDSWORTH: I do not want to be distracted with that. I will provide one detail before returning to the Bill. The cost of a loaf of bread in the past 10 years has gone up 500 per cent while wheat has gone up five per cent. The rest somehow has gone into the city. Cockies get nothing. Let us not talk about cockies. They have become very efficient.

An Opposition member: The plastic bag costs more than the wheat.

The PRESIDENT: What about letting the Hon David Wordsworth tell us something about the National Rail Corporation.

Hon D.J. WORDSWORTH: I will return to the interstate freight task that we have to carry out. Consider where interstate freight goes: Some 497 000 tonnes goes to the east from Western Australia and 1 524 000 tonnes comes back to Western Australia. Unfortunately the traffic is lopsided. In total about 2 000 units are moved. Some 581 units go north of Adelaide; 2 082 units go from Adelaide to Melbourne; 1 610 units go from Adelaide to Sydney; 2 638 units go from Sydney to Brisbane; and 2 533 units go from Sydney to Melbourne. There are six major routes, and Perth is part of just one of them. The Western Australian factor in national rail freight is not very large. The ability of the National Rail Corporation to carry out its task in the Eastern States would not be complicated by not having the Western Australian sector. We have become efficient. Australia is going through some very grave economic times. It would be far better if we looked after Western Australia's best interests. It would not hinder the Eastern States getting their act into gear and at a later stage we could join them. If we are to sell the key parts of Westrail to a company with its headquarters in the east and we have to freight our own goods back on our own railway line, we will only get into trouble. This is not the time for Western Australia to take on a few extra problems. Our own economic situation is not too good; even the Labor Party would admit that.

I feel very strongly that Western Australia should not participate in the national rail scheme at this stage. National Rail's annual report indicates that it is profitable. I have to be careful when I say "profitable" because when we talk about a loss of $4 billion for Australian railways, two per cent happens to be attributed to the passenger services provided by Westrail. Of the $115 million spent on the acquisition of fixed assets in 1991-92, $95 million was spent on social service projects while another $20 million was spent on commercial and jointly used assets. Unfortunately we are going in very much the same direction as the Eastern States. We are starting to act like rich people and to build railways hither and thither which have no hope of being commercially viable. While being very effective for the areas they serve, the economic situation of the railways in Western Australia will change. If we sell the very profitable part, we will be left with the unviable passenger rail services. I can assure members that it will cause considerable concern to the Treasury in this State.

Hon Fred McKenzie: It should have been done years ago. It is long overdue. That is one good thing the Labor Government has done.

Hon D.J. WORDSWORTH: It is a little like buying a new suit every day and throwing the old one away: Highly desirable, but whether it can be afforded is another matter. The Labor Party will realise that currently 54 per cent of our national production goes towards repaying our borrowings. Other countries in the world would have gone broke by this stage.

Hon Fred McKenzie: The public transport system is very efficient.

Hon D.J. WORDSWORTH: Let us look at some of the performance indicators of Westrail. The freight rate, in cents per net tonne kilometre, in the past four years - since the Labor Government has been in power - has dropped from 7¢ to 5.5¢. The freight revenue per employee has increased from $575 000 to $720 000. The locomotive productivity has gone up from 2.7 to 3.5. These figures are very good and they relate to only the past four years. The work that has taken place during the past 10 to 15 years has been in accordance with the corporate plan. One of the staff of the National Rail Corporation listed in the report is Fred Affleck, the general manager of corporate affairs. He was on my staff when we did the Southern Western Australia Transport Study. It is rather interesting to see him in the planning field in this organisation.

I hope I have illustrated that there is a need for whichever Government is in power after the next election to look very closely at the proposal of the National Rail Corporation and decide whether and how Westrail can handle it and whether it would not be wiser for us to leave our participation until a later stage. I am sure that it would be easier for the Eastern States to do it without our involvement in the early stages. The report talks about a land bridge terminal at Fremantle. The only mention in the corporate plan is on page 27. It states -

Two other projects that have been identified as providing benefits to the national operations of the NRFC are landbridging proposals for Western Australia and Queensland (including extending the standard gauge link to Fisherman's Island).

Hon Mark Nevill: What is the date of the corporate plan?

Hon D.J. WORDSWORTH: It is dated 21 March 1991. That is the only mention of Western Australia. We might like to think that great things will happen in Fremantle; however, they are very minor things. Reading the report further, it states that it is simply not efficient to do them. It is a dream to think that container ships will come into Fremantle and unload their cargo and then send it by rail across Australia. It would be far more economical, having put the freight onto a container vessel, to leave it there and to transport it around the coast. We should deal with this proposed NRS very carefully. I will not go into whether we will lose $10 million or $100 million. I am loyal enough to Australia to think that if something needs to be done, it should be done. It is not the financial loss involved in this project that worries me; I am more worried about the fact that it will set back Western Australia's own railway system. That should make us hesitate and consider going into this arrangement in a few years' time.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [8.40 pm]: I was both interested and pleased to hear Hon David Wordsworth's opening comments in his contribution to this debate on the National Rail Corporation Agreement Bill. Like Hon David Wordsworth I also question why the Western Australian Government wants to give away one of this State's most valuable assets; that is, the rail system in Western Australia. For those members who think we are talking about the main east-west line from Perth through Kalgoorlie and a section east of Kalgoorlie, I advise them that the impact of the Perth-Kalgoorlie rail system being transferred to the National Rail Corporation will mean that the remaining railway network in Western Australia is likely to fail within a number of years. It means that the old Western Australian Government Railways Commission, which was established almost 90 years ago, is likely to fall into a heap within five years if we agree to the proposition contained in this Bill.

Members will be aware that when this Bill was first debated in this House a few days ago, Hon Eric Charlton moved that the Bill be referred to the Standing Committee on Legislation to enable it to hold public inquiries and receive evidence from interested persons and to listen and learn from experienced persons in the rail transport area about the likely impact on Western Australia, particularly on Westrail, of the provisions of this agreement. Clearly, that caused the Government to start running around in circles because it believed its beloved Bill to establish the NRC would be sidetracked. As a result of Hon Eric Charlton's comments, the Federal Government and the other State Governments which are participants in the NRC intergovernmental agreement have provided the State Minister for Transport with correspondence to the effect that if Western Australia is prepared to go along with the current arrangement there will be a moratorium on its involvement and it will be able to withdraw from the agreement no later than 30 June next year. That, in itself, is a strange way to do business.

The Government is being invited by the Federal and other State Governments to enter into an agreement with an immediate proviso that if it does not like it, it can opt out within a period of about eight months. The proviso does at least enable the next State Government of Western Australia to immediately review this State's participation in the NRC arrangements and to take the necessary action to again free Westrail to ensure that it is maintained as a State-owned and operated railway, rather than its being flogged off at bargain basement prices to the NRC.

Hon Fred McKenzie: I am willing to have a wager with you that if you are in Government you will not change the agreement, and they know that also.

Hon GEORGE CASH: I am always interested to hear the comments of Hon Fred McKenzie, particularly in respect of the railways.

Hon Mark Nevill: He is an authority.

Hon Fred McKenzie: Unfortunately, no-one listens to me.

Hon GEORGE CASH: I respect what Hon Fred McKenzie says about the railway system, but I advise him that I am somewhat distressed that Labor members opposite have not stood

up in this place to tell the real story. I can never understand why true, traditional Labor members are prepared to allow State Cabinet to steamroll them and destroy one of this State's most important assets. It is interesting that the State Labor Party has for many years relied on the vote of railway unions. I am aware that only a small number of people involved in the railway industry vote for the Liberal or National Parties. I do not know what is the percentage, but certainly the majority of them would vote for the Labor Party.

Over the last 18 months while this legislation has been under consideration in this State the State Government has put offside most of its Labor supporters because of the way it has done business in bringing the NRC agreement legislation to this Parliament. Although members are very aware that I was once a very proud member of the Australian Workers Union -

Hon Sam Piantadosi: Did you work underground?

Several members interjected.

Hon GEORGE CASH: I was not a shop steward but approximately 30 years ago I was a paid up member of the AWU. Labor members may not like to hear that.

Hon Cheryl Davenport: That is when you saw the light?

Hon E.J. Charlton: You should go back and see if you can straighten it out.

Hon GEORGE CASH: The reason I raised that is I like to believe I still have an affinity with the labour movement. It was in May this year that a prominent person in the railway union movement who has been helping me to understand the ramifications of the NRC proposal -

Hon P.G. Pendal: Did he make you a life member?

Hon GEORGE CASH: No. This person's father worked for Westrail for something like 40 years and he retired as a senior officer of that organisation. Anyway, this person and his father organised a meeting of senior representatives of the union movement at Parliament House so that I and a number of my colleagues could understand what the union movement was being told about this agreement. This meeting gave me the opportunity to learn how the unions feel about the way they have been treated by the Labor Government.

Hon D.J. Wordsworth: They could understand what I was doing, but they cannot understand what the Labor Party is doing.

Hon GEORGE CASH: They believe they have been sold a pup and sold down the river by this Government. An issue raised at the meeting was a general principle which it is important to recognise. It is a principle which the coalition parties support and it was clearly supported by the representatives of the railway unions in Western Australia. The unions are not opposed to the general principle of the NRC, but they are opposed to the lack of union consultation. They were kept like mushrooms in the dark about this agreement and when they raised questions with the Government they were not given honest and direct answers. They were given non-answers which caused them to go away and come back with further questions.

Hon Sam Piantadosi: Are you now a shop steward for the AWU?

Hon GEORGE CASH: Not at all.

Hon Sam Piantadosi: I thought you might get involved again.

Hon GEORGE CASH: I do not represent myself today as a shop steward for the AWU; I do represent myself as a person who has spent a lot of time considering the likely impact of the NRC agreement on Westrail and Western Australia. It is a shame that Government members have not studied the ramifications of this Bill.

I predict that if we do not opt out of this agreement within five years' time, there will no longer be a Westrail in this State and the producers of the agricultural and mineral products which account for this State's huge bulk rail freight will be begging someone to transport their products. They will be ripped off by the transport industry.

Hon Sam Piantadosi: Because of Mr McKenzie's offer?

Hon GEORGE CASH: What was that?

Hon Sam Piantadosi: A wager.

Hon GEORGE CASH: The member knows I am not a betting man. I am saying to Hon Sam Piantadosi that I believe a coalition Government will pull out of this deal because other options are available to it. In selecting one of those options it will not destroy the concept of the National Rail Corporation, but it will protect the assets of Western Australia and have some regard for the people who work for Westrail in this State. Under the NRC proposals Westrail employees are more than likely to be looking for a job in the not too distance future because the NRC will be controlled out of the Eastern States. Melbourne has already put in its bid and we know that South Australia has already been granted many of the operational functions of the NRC.

I turn to the meeting I had with union representatives. One representative said clearly that he was unable to get information from the Government indicating the true financial impact on the State of this agreement; he did not understand, and was not told by the Government, what would be the impact on Westrail, including its country operations; and he did not know what the impact would be on present Westrail employees. He did know, however, that the Commonwealth was likely to select the best rolling stock Westrail owns and take that as payment for part of the State's share in the NRC agreement leaving Western Australia with, as Hon David Wordsworth suggested, what is basically the rubbish or left over rolling stock.

Hon Fred McKenzie: If the member observes the trains coming or going interstate he will see little Westrail rolling stock on them. I do not know where he got that story because the wagons on that rolling stock are almost always interstate ones.

Hon D.J. Wordsworth: That just shows that national rail is already working.

Hon GEORGE CASH: Following this debate I will be more than happy to tell Hon Fred McKenzie the name of the person who raised this matter with me because it is someone he knows from the union movement. I believe that person honestly represented the views of his union at that meeting.

Hon Fred McKenzie: I invite Hon George Cash to observe that rolling stock for himself.

Hon GEORGE CASH: I spend a fair bit of time taking an interest in Westrail. I was previously shadow Minister for Transport.

Hon Sam Piantadosi: That didn't last long.

Hon GEORGE CASH: The member is wrong, as I held that position for a considerable time during which I developed good relationships with people at Westrail. One of the reasons those people have told me these things that they have not told the Government is that they do not trust the Government. They made that clear to me at the numerous meetings I had with them.

Another member asked about the impact on the workshops. At that meeting I talked about the number of employees at the Midland workshops and whether when Western Australia becomes a participating shareholder in the NRC the work currently carried out at those workshops will continue. The Government was not prepared to answer that question. Later we found out why when an article was published in *The West Australian* under the headline "Coup for South Australia in new rail operation" under which it was stated that South Australia would become the national operations centre for the new national rail system, managing all national rail operations. South Australia will also have most of the work carried out at the Midland workshops because it will be cheaper to piggyback various rolling stock to South Australia and have it maintained at the huge workshops there than continue a workshop in Western Australia. That will result in considerable unemployment for Western Australia.

Hon Sam Piantadosi: Will you keep those workshops open?

Hon GEORGE CASH: It is not as simple as saying the coalition will keep those workshops open. We wish to keep Westrail a viable operation. Clearly, if it is to be a viable operation, it needs maintenance workshops. That seems to indicate that we support maintaining those workshops and ensuring that maintenance work is done in Western Australia.

Hon Sam Piantadosi: Did you hear what Mr Wordsworth had to say about the recommendations he made when Minister for Transport?

Hon GEORGE CASH: I heard what Mr Wordsworth said. I, for one, have had the

opportunity to review the ministerial career of Hon David Wordsworth when he was Minister for Transport. As was said earlier, it was a distinguished career and one in which he stood up and spoke out on behalf of Westrail. That is what Mr Wordsworth is doing now as a member of the Opposition. He has not forgotten Westrail and is still prepared to stand and recognise that it is an important State asset which needs to be maintained.

Hon Sam Piantadosi: If you -

The PRESIDENT: Order! The comment I made prior to the dinner break to Hon Sam Piantadosi was not cancelled during that break. The warning I gave him still applies. People who continue to interject after I have told them to stop interjecting sail dangerously close to spending the rest of the night outside this Chamber. I know that the honourable member would not want to do that, so I suggest that he stops interjecting.

Hon GEORGE CASH: Other matters raised by that union delegation included the fact that the NRC will not take over Westrail's debt but merely pick the eyes out of the whole organisation and take the good bits as described at that meeting; that is, the various design functions carried out by Westrail at the moment will be shifted under the terms of this agreement to the Eastern States, so we will lose out there; and the engineering design and manufacture and the engineering systems and maintenance will also go to the Eastern States whether we like it or not.

The whole of that meeting was founded on the proposition that we appear to be getting rid of an efficient State organisation in Westrail which influential Federal Government advisory bodies have named as the most efficient railway system in Australia. Surely there must be a message there. I am not saying that Westrail cannot become more efficient, but in general terms it is an efficient organisation because it has been subject to streamlining over a long time. One of the reasons why New South Wales and Victoria are so keen to see the National Rail Corporation agreement come to fruition is that they are the two States that lose most on their railway operations. They know that if they can snare the rest of the States and have a national rail body the Federal Government will honour certain commitments it has given them about relieving both States of some massive costs that they will face in the near future to maintain and improve their railway infrastructure.

This agreement is all about a good deal for New South Wales and Victoria. It is all about a bad deal for Queensland and Western Australia. That is why Queensland opted not to become a participating shareholder but to take another role. It is described in the agreement as "the other State". Only Queensland has that opportunity at this stage. Queensland's obligations are quite different from those of Western Australia, and the agreement sets out the differences. I suggest that if we want to participate in a national rail organisation - and Hon Eric Charlton has said that the coalition agrees to that sort of efficiency and Hon David Wordsworth has confirmed that we can do that without selling off or destroying Westrail - why should the Government want to destroy Westrail?

This National Rail Corporation Agreement Bill came about because of an agreement signed by the various State Premiers and the Prime Minister on 30 July 1991. It is an intergovernmental agreement, and under the Standing Orders this Bill should technically lay on the Table of this House for 120 days before we deal with it. As a House, we agreed to suspend Standing Orders because we did not want it said that Western Australia was obstructing the establishment of the National Rail Corporation. We wanted the Bill referred to the Legislation Committee so that people could come forward and give advice in respect of the best option that should be available for Western Australia. Some changes have occurred since then; the Government has said that as long as we sign the agreement we can get out of it in eight months, and as a result of the agreements that have been struck between the coalition and the Government that would seem to be the way to attack the proposition.

Following the election of a coalition Government next year I expect an immediate review of the proposal so that we are in a position to advise all other States and the Commonwealth that we intend to withdraw from the agreement by 30 June 1993. In my research on the National Rail Corporation I came across a number of documents. They were not provided by the Government, but by members of the union movement who wanted me to have the documents so that I, and other members of the coalition, would be in a better position to understand what the agreements are all about. The first document is dated 17 June 1991; that is, about one month before the Premier signed the intergovernmental agreement to set up the

corporation. The letter is from the Premier of Western Australia, Dr Lawrence, to Hon R.J.L. Hawke, Prime Minister, Parliament House, Canberra. I will not read the entire letter. The first paragraph states -

> The purpose of this letter is to express my concern at the current progress of negotiations for the formation of the National Rail Freight Corporation (NRFC) and to outline an alternative approach for Western Australia's participation in this initiative.

The Premier goes on to outline why Western Australia would be better off following the path that was taken by Queensland; yet, six weeks after the letter was signed and sent to the Prime Minister, for some inexplicable reason the Premier decided to sign what is now titled "Schedule 1" in the National Rail Corporation Agreement Bill, which goes in a completely different direction. This is an agreement between the participating shareholders. I fail to understand why the Premier changed the direction that she had outlined in the letter six weeks earlier to the Prime Minister. I do not know what sort of deal was done at the meeting of Premiers in July 1991. I know that the end result of the deal was that Western Australia ended up worse off than all other States, and that is something we will live to regret.

In respect of the proposition that was outlined at the time I now quote from a document that was available to the Premier and certainly to the Minister for Transport. The document relates to Westrail's position and at page 3, in part, reads -

> In summary, even with improved operating efficiencies from capital investment, the financial results show the NRFC to be a marginal prospect commercially, but a considerable improvement from a national perspective over the alternative of separate interstate rail freight systems.

Hon Fred McKenzie: That "considerable improvement" is important.

Hon GEORGE CASH: The member is right, but this is not dealing with the manner in which we should participate in the deal. I am saying that Western Australia would do far better to be nominated as the "other State" rather than a participating shareholder. The task force which was advising the Minister at the time recommended that the Australian Transport Advisory Council Ministers note the financial analysis, and that the NRFC could be financially viable subject to achievement of efficiencies from improved operating practices and the recommended capital investment program. It also recommended that the Ministers note that the task force would continue its work by identifying and prioritising a commercially warranted capital investment program.

Further on, we note what turned out to be some damning comments in respect of Western Australia's position. At page 9 of the same document it states -

> As outlined in later Section 4 of this paper, on the basis of the information available, it is estimated that the recommended proposals will have an adverse impact on Westrail's and the Government's financial position of some $105 m over the next five years.

And later, on the same page -

> It is considered that Western Australia should oppose the principle of transferring assets for equity until some indication of the mechanics and likely outcome of the process is available ... Passing control of the permanent way to the NRFC could present real operational and financial risks to Westrail's intrastate freight and passenger services.

The risks were outlined by Hon David Wordsworth. He shares my view that there is a substantial danger to the balance of the rail network in Western Australia if we go ahead with this agreement in its present form. I suggest that within five years the balance of the network will cave in on itself, and we will not have a viable rail network in Western Australia. This is a vast State where we rely on rail transport to carry the major bulk, such as minerals and agricultural products - and that agreement will be to the detriment of the State.

Hon Kim Chance: Would you expand on that point? You have said it twice, and I am not sure that I understand why it would collapse on itself.

Hon GEORGE CASH: At the moment the main east-west network which is proposed to be

transferred to the NRC is the Perth-Kalgoorlie section. The rest of the rail system in Western Australia generally feeds into that spine. If we transfer that spine to the Commonwealth we will be obliged to seek running rights from the Commonwealth in respect of that track. That means that all our other network rails in Western Australia will be dependent on permission granted by the NRC.

Hon Mark Nevill: That will be properly negotiated.

Hon GEORGE CASH: I suggest that the Government is setting itself up for a dangerous situation, for an accident to occur. At the moment Westrail controls all the tracks in Western Australia. It monitors what is going on all the time. It is able to use the feeder networks to the main spine and operate them as one unit. Why would we want Westrail to have to apply to either Adelaide or Melbourne for permission to use the main spine of the network? Later, if we have a mineral deposit somewhere east of Perth, and we want to build a new spur line or branch line to the deposit we will have to apply to the Eastern States again to tap into the main spine and use it as a feed line. While Western Australia controls its State rail network we can carry whatever product the State determines is appropriate on that rail network. What would happen if we decided to mine the uranium at Yeelirrie? Do members think that the Commonwealth Government would allow that uranium product to be carried on an NRC line? It is not likely at all.

Hon Mark Nevill: Why not?

Hon GEORGE CASH: Because it would be against Federal Government policy.

Hon Mark Nevill: How does Roxby Downs transport its uranium?

Hon GEORGE CASH: That project has already been agreed to by the Federal Government. Yeelirrie is a project that might not be agreed to by the Federal Government, but might be mined in Western Australia for other reasons. By transferring the main spine to the NRC we leave ourselves open to having to apply to the NRC for the use of that line. There are different ways of achieving that aim. I am suggesting that by adopting the status of "other State" Western Australia could maintain all its assets and give the NRC running rights over its lines.

Hon Kim Chance: As I understand the major user concept, Westrail would be the major user between Merredin and Perth and would control that line.

Hon GEORGE CASH: That is not necessarily true. If Hon Kim Chance reads the agreement very closely he will see that the whole lot can go.

Hon Kim Chance: It is possible, that is true.

Hon GEORGE CASH: One of the problems with this Bill is that the Minister of the day can determine the future of Westrail with the signing of his or her name. It does not have to come back to the Parliament.

Hon Mark Nevill: Clause 14 requires both Houses of Parliament to agree to the transfer of assets.

Hon GEORGE CASH: Hon Mark Nevill should read that clause closely and consider why no schedules are attached to determine which assets are going where.

Hon Mark Nevill: That is to be negotiated.

Hon GEORGE CASH: Mr Nevill must read some of these documents. I have listened to Vince Graham from the NRC. He already knows what he is getting, because there has already been some - I do not like to refer to them as behind the counter deals - negotiations in force. For some unknown reason Vince Graham has continually told Westrail employees that even if the Western Australian Government does not agree to this Bill - that is, the Parliament does not agree to the Bill - in its present form, he still intends that the NRC should run into Western Australia. He says that it will use some other constitutional power to do it. I do not know how he proposes to do that or whether he is trying to bluff people in this State, but the attitude of the NRC management to Western Australia is very much one where Western Australia is the poor relation. They are not interested in protecting this State at all. We are going to be the losers. Page 10 of this document refers to the commercial viability of the NRC. It states -

> It is of general concern that the Task Force's results show that, at the very best, the NRFC is commercially only a marginal proposition. Such a result clearly demonstrates the extent of the inefficiencies and lack of investment in the Eastern States rail systems.

Western Australia will end up subsidising the massive rail problems of the Eastern States. To continue -

> Importantly this marginal positive financial result is based on significant operating efficiencies being realised.

The task force is projecting into the future and saying that if these efficiencies are not realised the corporation will be stuck with massive losses and the capital investment program and improved work practices in the corporation will not meet its financial targets.

It continues -

> All models results are based on best estimates of market price and volume assumptions and cost efficiency improvements. As a sensitivity test to derive an indication of the downside risks, it has been estimated that with cost efficiency improvements halved, the financial results of the NRFC would be losses of approximately $240 million in 1998 and $350 million by 2004. This State -

That is Western Australia -

> - could therefore face significant additional costs in providing further equity injections.

Hon Mark Nevill: Now do the sensitivity analysis on the other side. What are the possibilities of profit if the corporation is successful?

Hon GEORGE CASH: It is possible to forecast on the best possible results, but that is like living in cloud cuckoo land.

Hon Mark Nevill: You are projecting the worst possible outcome.

Hon GEORGE CASH: I am suggesting that these were the recommendations of ATAC Ministers and that they would fully understood what it was all about. In general terms everything that has been published on the NRC has been on a best scenario basis. I am suggesting that the task force had a look at the situation, did some sensitivity tests, and told the Ministers that if they did not get the best place scenario -

Hon Mark Nevill: I hope we do better than that.

Hon GEORGE CASH: That is the difference between a Government that is involved in business and a private operator in business. A private operator can shoot for the stars and if he achieves it, that is fine. If he does not achieve it, his company loses the money. In the private sector if the forecasts of the sensitivity test were not achieved, someone would be looking at management and there would be a shake up. I do not see anyone's head on the line if in five years' time we find that everything that was said in, we hope, good faith is not achieved. What would happen? Do we write it off as a bad joke? Do we do what the Government has done with the $1.5 billion that it has lost in its bad business deals over the past decade and turn around and say, "We will turn over a new leaf and take a new path." The $1.5 billion that the State has lost is a debt that will have to be repaid by the taxpayers of this State over probably the next 20 years. If the figures that we have been given on the NRC are not reached it will be the taxpayers of Western Australia who will suffer. There are alternatives that can save the taxpayers from losing money. The next point in the report states -

> It should also be recognised that the Task Force's projected results do not include any payments by the NRFC to States for the lease or acquisition of the permanent way. If such payment were made, then the NRFC's financial result would deteriorate substantially.

The report continues on page 11 -

> If contributions are to be made by shareholders to operating losses in early years, then it is argued that these should be based proportionately on the current operating losses of the existing systems and not on the basis of total losses on a fully distributed cost basis as proposed by the Task Force.

At the moment Westrail runs the most efficient operation. If we entered into the NRC and the operation made a loss, we should not bear the burden of the Eastern States losses. We should bear the burden that is directly attributable to Westrail's side of the operations, because we know at least that we have an efficient operation that will be the lesser payment. However, there are real operational and financial risks to Westrail and presumably other rail systems if the NRFC has control of the permanent way.

> For example intrastate freight and passenger services operating over these lines could well be given lower transit priorities resulting in cost penalties and potential revenue losses. In the total, the volume and revenue of these other traffics using the line (eg grain, bulk ores, general freight, inter and intrastate passenger) is very substantial and important to the State's finances.

That perhaps is the answer in part to Hon Kim Chance's earlier question. Once the NRC is controlling the main spine, it will in fact control the transit priorities. Any loss of time from Westrail's point of view on the branch network trying to use the main spine is borne by Westrail. That is clearly a difficulty. On the issue of industrial relations the report in part states -

> The loss of jobs in this State that will result from the NRFC proposals is also of concern to the Unions, and further work needs to be undertaken to demonstrate the impact on employment and how this will be handled.

I have been attempting to find out over the past 18 months through questions in this Parliament to the Minister for Transport what the impact will be on Westrail employees. Every time I ask a question about that matter, even if I am specific and ask about Northam, Merredin or Kalgoorlie, I am told that they are matters which are subject to negotiation. That is fine, but the Westrail employees in Northam, Merredin and Kalgoorlie want to live their lives, and they find it distressing to receive vague and general replies such as, "It will be subject to some sort of negotiation." As they have told me, their lives and their families' lives are being played with.

I turn to the financial impact on Westrail. On page 15 the report states that the loss of revenue from Westrail's intrastate freight business will be one of the downsides. Other disadvantages will be -

> responsibility for funding the redeployment and redundancy costs for interstate freight staff not required by the NRFC.
>
> a requirement to contribute equity to the NRFC, to fund capital investment, as proposed in the Task Force report.
>
> contributions to NRFC operating losses in the initial years, as recommended by the Task Force, and possibly beyond that period if planned efficiencies are not realised.

Estimates of the expected financial impact of the NRFC on Westrail for the five year period from 1991-92 to 1995-96 are as follows -

> . . . Western Australian Government finances could be $105 million worse off after five years if the NRFC proceeds as currently envisaged. There is also a real risk that the impact could be much worse if the performance of the NRFC falls short of expectations.

I return members' attention to the letter dated 17 June 1992 from the Premier addressed to the Prime Minister about the question of the NRC. Paragraph 2 on the first page states -

> To put the issue into perspective, a recent independent financial valuation undertaken for Westrail placed an indicative value on its interstate freight business at around $200 million. Even if this was fully recognised as equity, the significant risk that the NRFC will not produce its predicted profits would expose Western Australia to much greater risks that at present.

It was later suggested in the same letter that -

> Payments to Westrail would equate to an annual amount of approximately $27 million. Westrail would negotiate payment to the NRFC for the rights to run on the track. The mechanism of a special revenue supplement funded by the NRFC or the Commonwealth would need to be considered.

In its present form the impact of this Bill on the rail system in Western Australia could be massive. It has the potential to destroy our State rail system. There is a saying, "If it isn't broken, don't fix it." Although the Opposition agrees with the general concept of a national rail system, Westrail is the most efficient rail system in Australia and can still work within the framework of a national system without giving away its own identity or transferring assets to a national body. Western Australia, as I have said before, will be seen as a poor relation; as a minor shareholder it will have little or no say on the board. The mere fact that Westrail is given a director on the board is nothing more than a sop to this State, because one director voting against the other directors will not change the position of Western Australia. It is clear that New South Wales and Victoria view the NRC as a bonanza because it will allow the free flow of Commonwealth funds into those States. It is almost a case of winning Lotto. However, Western Australia will find that it is the one State which is worse off.

The National Rail Corporation was established to transform the bankrupt interstate rail freight business and, in particular, the bankrupt systems in New South Wales and Victoria. We do not need to destroy what is one of our greatest assets in this State. Although the coalition is prepared to agree to this Bill on the clear understanding that Western Australia has the opportunity of withdrawing by 30 June next year, I hope our agreement will not be taken as any acceptance or claim that this Bill has long term benefits for Western Australia.

In the glossy brochures produced by the NRC from time to time, it is clear that it likes to talk about its future profits, how it will do so well and how it will be the salvation of the transport problems of this country. I was interested to note that in an annual report for 1991-92 of the National Rail Corporation under the heading "Results" the loss which the company has already incurred in the last nine months is indicated and the following is established -

> The period under review is the ten months from 19 September 1991 to 30 June 1992. The loss of the company for the period under review was $2,074,075. No dividend was paid during the period and none is recommended

That indicates that the National Rail Corporation has got off to a somewhat inglorious start.

Hon Fred McKenzie: Any business in its first five years is not expected to make a profit. The NRC is not even operating; it is just setting itself into place.

Hon GEORGE CASH: Yes; at great expense to the taxpayers. The member said that any business in its first five years is not expected to make a profit; however, the fact is that Westrail makes a profit on its interstate freights. We do that right now. All we have to do is slot in -

Hon Fred McKenzie: How do we know it is not at the expense of others? I told this House the other day that I formerly worked for the Midland Railway Company and it made a profit at the expense of the WA Government Railways Commission.

Hon GEORGE CASH: I am a bit unsure -

Hon Fred McKenzie: I was there.

Hon GEORGE CASH: I accept what the member is saying. I am a little unsure about what he meant by Westrail's profits being made at the expense of others. Who are the others?

Hon Fred McKenzie: It may be that they are using their equipment.

Hon GEORGE CASH: That is fair comment.

Hon Fred McKenzie: If I sat down and talked about it I might understand it better. I am trying to draw an analogy between the Midland Railway Company and the WAGR Commission.

Hon GEORGE CASH: Westrail is the most efficient railway system in Australia and there is no need for us to participate in losses over the next five years. I am aware of what the Bill says about compensation for the losses and the rest of it. What I am saying is that the efficient system that we have today is able to be slotted into a national rail forwarding system without our losing the ownership of our rolling stock or our tracks.

Hon Fred McKenzie: I want to explain how the MR Company did that. The WAGR got one shilling and sixpence a ton for loading and unloading the goods. The MR operated between Midland and Walkaway, not Midland and Geraldton. The WAGR got one shilling and sixpence a ton and the Midland Railway Company got ten shillings and sixpence.

Hon GEORGE CASH: That is an interesting scenario. The member is saying that the owner of the track did not get a very good return, but the operator seemed to do very well for himself.

Hon Fred McKenzie: The one that carried the goods over the greater distance.

Hon GEORGE CASH: Yes. I am suggesting that if we manage Westrail's affairs effectively, Westrail will produce the best return for this State. I do not always agree with Mr McKenzie on the rail system and I have been critical of some elements of it over a number of years. However, I am prepared to recognise that we have a very efficient rail system in Western Australia and should not destroy that by linking it up with the big loss makers in the Eastern States just because someone at a Premier's Conference thought it was a good idea at the time. I am mortified to think that a Premier can go to the Eastern States and sign over the future of one of our State's assets as big and as rich as Westrail without the Parliament being consulted and then the Parliament finding that a Bill is introduced 18 months later to ratify something that was never discussed in the Parliament. Were Government members in this House aware, prior to the Premier signing this agreement, that this was the way Westrail was going to go? I take the silence to indicate no. That in itself is an indication that we cannot allow Premiers or Ministers to sign away the assets of this State without the Parliament being fully informed of the nature of an agreement they might be striking.

I have made my points. I hope that this Parliament is big enough to take the necessary action to ensure that we do not destroy something that has taken 90 years to establish.

HON FRED McKENZIE (East Metropolitan) [9.34 pm]: I will take advantage of the temporary absence of the Parliamentary Secretary handling the Bill. As members know, it was not my intention to speak on the Bill because we have a backlog of legislation and it is important that we deal with it. However, I am pleased to have this opportunity to speak on it because I understand the apprehensions voiced by Opposition speakers. To some degree I share them. It has been clearly demonstrated by speakers on the other side that they do not oppose the concept of the National Rail Corporation; therefore, it is accepted in principle. However, they have some concerns about the impact that it will have on the State. We are venturing into somewhat unknown territory and I understand members' apprehensions. I have the same apprehensions about staff. However, if we are to put in place efficiencies in this nation, we have to be prepared to accept changes. I am keen to see more interstate rail traffic because I do not think any road vehicles should travel between the Eastern States and Western Australia. That task should be carried out exclusively by rail and if it is not there is something wrong. If efficiencies can be effected, we have to go down that path.

Out of this agreement and because of the opposition that has been associated with it, we will get the best of all worlds. Sometimes we have to be thankful for this House being obstructionist because that is how the Government will view it. We have a deal now that will last six months and I am willing to bet - because I am a gambler, unlike Mr Cash who is not a betting man - that the legislation will be accepted by the end of July next year, irrespective of who is on the Government benches.

The Bill has been with Parliament for a long time, although not in this House. I have also learnt something else in the last few days - one never stops learning in this place - and that is that in the future the Standing Committee on Legislation will be able to examine the Bill. I was concerned about that because I thought it would have been the death of the Bill. However, it may be of long term benefit to Western Australia. Maybe we should have had the Legislation Committee look at this Bill when it was in the other place. We did it here the other day with another Bill; I forget its title. Hon Peter Foss presented a petition which was queried by the House. As a result of that, some time later he tabled a Bill that is in the other place and moved that it be referred to the Legislation Committee. The Legislation Committee could have been looking at this Bill for the period that it was in the other place. We have at least learned something from the National Rail Corporation Bill.

Because I have been involved in this matter, I am aware of the reasons for the delay in Western Australia. The Bill has been delayed because the Government has been concerned about conditions that will apply to the work force and has been trying to extract from the Federal Government some assurances on working conditions. The Government has not been successful, although not for want of trying. I am sure that whichever party was in office, the

same thing would have applied. There has been no lack of application; pressure has been applied for assurances for the work force. However, we have not gained those assurances. Many things have not been resolved. One does not know whether they will be. However, it has not been for the want of trying. I support the proposition put forward by the Opposition that the Bill be voted upon rather than be referred to the Legislation Committee.

HON MARK NEVILL (Mining and Pastoral - Parliamentary Secretary) [9.40 pm]: The decision by the Opposition parties not to refer the National Rail Corporation Agreement Bill to the Standing Committee on Legislation is certainly welcomed by the Government. The Government has a strong commitment to the Bill becoming law. It is an important transport and economic reform, not just for Western Australia but for the whole of Australia. Currently, I believe we lose approximately $320 million a year on interstate rail traffic. This Bill gives us the opportunity to turn that loss around and will allow the National Rail Corporation to post a profit. If Westrail can do that within this State with the mixture of gauges and different businesses it undertakes, I can envisage the NRC being able to turn its business around with its fairly direct routes interstate. The interstate freight business of Westrail currently represents 20 per cent of the total freight business revenue in this State and yields $43 million a year. Westrail currently incurs an annual loss on its operation, when all costs are taken into account, of $10 million. Therefore, there is no profit to protect in this Bill.

I do not accept the Opposition's criticism that not enough information has been provided on this Bill. As Hon Fred McKenzie said, the Bill has been available for between 12 and 15 months and the Opposition parties have been briefed on the legislation - as has Hon Reg Davies - by the Department of Transport, Westrail and the National Rail Corporation. The details of the national corporate plan of the NRC have also been distributed. The NRC enterprise agreement is available, as is the memorandum of understanding between the Australian Council of Trade Unions and the railway unions. Events have changed over the past weekend following the proposed referral of this Bill to the Legislation Committee. Hon Pam Beggs, Minister for Transport, was busy during the weekend trying to negotiate an arrangement whereby the Bill could be passed in order to establish the National Rail Corporation and also to allow the Opposition some opportunity to reverse the train of events that flow from this Bill. The agreement hammered out over the weekend between the two major States - Victoria and New South Wales - and the Commonwealth has been outlined by Hon Eric Charlton, who read some letters into his speech in the debate tonight. I had intended to incorporate those letters in *Hansard* but as the three letters are very similar and Hon Eric Charlton has read one of them, I will not take that action.

I am happy to confirm for Hon Eric Charlton that those letters are the basis of the agreement between the other States and this State, and that that agreement will be honoured by the Government. That agreement is basically an undertaking by the Commonwealth, New South Wales and Victoria that, following the enactment of this Bill, they will agree to any request by the Western Australian Government before 30 June 1993 to amend the shareholders' agreement. They will amend it in such a way that Western Australia will be able to cease being a shareholder and will become an "other State", as is Queensland at the moment. Shares issued to Western Australia will be cancelled and Western Australia's obligation to pay equity contributions to the company will cease to have effect. The Western Australian shares will not be reissued. The National Rail Corporation will not transfer any assets from Westrail before this period has expired, and Westrail will retain shareholder status and a director on the board until it withdraws from the agreement. Those are the basic points in that agreement made between the participating shareholders.

It is essential that this legislation pass through the House because, as Hon Eric Charlton said, the shareholders' agreement cannot be amended unless this legislation is passed. Section 8(1) of the agreement allows for a variation in the agreement and should the Bill not be passed it would be necessary to start from scratch with another agreement going through all nine Houses of Parliament, through which this Bill will have been once it is passed.

Hon Eric Charlton and Hon George Cash extolled the virtues of Westrail, and they were quite correct in their comments. Westrail has improved dramatically compared with the rail authorities in other States, and there is no doubt that Western Australia has the most efficient rail system of all the Australian States. It introduced two man crewing, bulk trains and all sorts of other initiatives years before any of the other States managed to do so. I doubt

whether some States have introduced those measures to this day. There is still a long way to go. Westrail has plenty of room in which to increase its efficiency, and that is a task also before the National Rail Corporation. The only way to achieve efficiencies is by way of competition. We saw what happened recently when Westrail withdrew from the wool business in the Merredin area. As soon as Westrail withdrew its service, the road transport prices went up. If we want prices to go down in the transport area we must have competition. There is still plenty of room for that.

Hon Eric Charlton mentioned staffing levels. It is hard to predict how many people will be displaced by this reform but it could be 130, depending on how many Westrail staff are employed by the National Rail Corporation and on a few other factors. These people have had a fairly healthy redundancy or transfer agreement negotiated on their behalf. I think the main concern about these redundancies is that they may result in an exodus of people from some country towns along the route. Different speakers mentioned maintenance, manufacturing and those sorts of contracts that might be available under the National Rail Corporation. Somehow we have the defeatist mentality that these contracts will all go to the Eastern States. I do not think that is necessarily the case. We must create the most efficient workshops and maintenance depots in this State. We have the most efficient railway, and I cannot see any reason that we cannot develop the most efficient railway maintenance shops, if they are not already the most efficient. All of these contracts are part of the agreement and will have to be negotiated, but it is an incorrect assumption that we will not get any of them. The fact that we have the most efficient railway system suggests that we are in the box seat to win a lot of these contracts. Clause 5(3) at page 18 of the Bill refers to the contracts for services, and indicates clearly that Westrail's opportunity to get a fair share of those contracts will be equal to, if not more than, that of anyone else.

Many benefits will flow from the passage of this Bill. Major capital works will flow from the One Nation program. Western Australia has two 750 metre sidings planned at North Quay that will allow containers to be unloaded directly off the ships and onto the railway wagons, instead of trucking them out to Kewdale. The program to raise the rail height to 6.7 metres between Perth and Kalgoorlie will allow the double stacking of containers onto trains. These measures will dramatically improve the efficiency of this route. Money has also been set aside in the One Nation package to increase the lengths of the loops over which the trains pass in order to ensure that there are not too many hold ups on that section of the route. These measures are all designed to improve efficiency, and although they are fairly basic improvements, they will take a number of years to complete. There will be a transition period of about three years and an establishment period of five years. Much hard work will have to be done by the State rail authority and the NRC to ensure that we get the best out of this new system and that it is efficient and perhaps sets an example for the other States, which are on a learning curve similar to us. People can rightly have misgivings that the rate of progress in the other States has been slow, but there are sufficient guidelines in this Bill to ensure that those other rail systems, particularly in Victoria and New South Wales, get their act together and ensure that the NRC is a success.

Hon David Wordsworth stated that the amount of rail traffic going from east to west is about three times the amount of rail traffic going from west to east, and that opens up the potential for landbridging of containers to the Eastern States. That is not some airy fairy proposal but is a realistic proposal, because it is much cheaper for ships to come to Fremantle and to unload their containers than it is to sail right around to the Eastern States. The fact that we have three times as much freight coming over here as going back to the Eastern States gives us the opportunity of shipping a lot of those containers east into the Port of Sydney, because there are a lot of problems in moving containers through that port.

Hon D.J. Wordsworth: That comprises a small amount of the freight in Australia, and if you want to take up that slack, it is a very small amount of slack.

Hon MARK NEVILL: If a train which is two-thirds empty going across to the Eastern States every time can be filled up with containers, most of that would be profit.

Hon D.J. Wordsworth: You say that, but if you bring in one ship to do that, you find that there is more than one train load full of containers.

Hon MARK NEVILL: Two trains a day go through Kalgoorlie at the moment.

Hon D.J. Wordsworth: I read out the report -

Hon MARK NEVILL: That report was written fairly early in the piece, and the knowledge and the planning has progressed substantially since that report was written.

Hon D.J. Wordsworth: It is a pity that you do not let members of Parliament know and give them some information. We got no help from the Government at all. We were kept in the dark.

Hon MARK NEVILL: I did not go to the Opposition's briefings, but I understood that the Opposition received briefings from the Department of Transport, the National Rail Corporation and Westrail, and if not enough information was provided, I certainly was not aware of it. That was not pressed home in this place, although there is no doubt that questions were asked about this matter.

I happen to live on one side of that railway line in Kalgoorlie and my office is on the other side, and quite frequently my car is stopped at the railway crossing near the Kalgoorlie Railway Station and I have to wait for the 700 metre trains to go past. There is another crossing further down from my place, where I also have to wait for the trains to pass. The Maritana Bridge is the only place where one can cross over the railway line when the trains are running. I have never seen any Westrail rolling stock go through Kalgoorlie, and I am not aware that Westrail has any significant number of flat top wagons which are used for containers. A member mentioned earlier that a lot of our equipment would be used which is not being used now. If the engines were being used - and I am not aware of that - they would be changed at the West Kalgoorlie railyards, because they certainly do not go any further east than that.

Hon D.J. Wordsworth: If the NRC does not want those engines, and we will lose that much traffic, they will not do any work.

Hon MARK NEVILL: If Westrail is not using those engines now, then they are doing other work.

Hon D.J. Wordsworth: They will be lost to interstate traffic.

Hon MARK NEVILL: If they were using Westrail locomotives, and I am not sure about that, they would be changed at West Kalgoorlie. It is very inefficient to uncouple locomotives at Kalgoorlie. It is more efficient for the train to go straight through and to just change the crew. That will happen under the NRC.

Hon D.J. Wordsworth: How long does it take to change an engine?

Hon MARK NEVILL: Those trains usually have three engines. It takes the same time to change one engine as it takes to change three engines, so it is a fairly pedantic argument. Hon David Wordsworth was very pessimistic about the capacity of the NRC to be efficient. I think I have covered some of the areas where the efficiencies, at least at our end of the interstate rail link, can be improved dramatically, but the Bill provides a number of other initiatives to improve efficiency. Under the best practice industrial agreements, the NRC will not start off with inefficient work practices. It will start off as a new entity, and it should benefit from that fresh start.

Hon D.J. Wordsworth: The Labor Government has had 10 years to make some decent agreement with rail unions, and that has not been done.

Hon MARK NEVILL: Hon David Wordsworth is very uncharitable with that remark. Under this Government, Westrail's work force has declined by 6 000, much to Hon Fred McKenzie's annoyance. There has hardly been a strike during the shedding of that work force, because the people who were made redundant were given respectable, decent redundancy and could retire with a bit of dignity.

Hon D.J. Wordsworth: I was referring to the whole of Australia - to the Federal Labor Government.

Hon MARK NEVILL: Certainly the New South Wales and Victorian rail systems are incredibly inefficient.

Hon Peter Foss: They have improved, believe it or not.

Hon MARK NEVILL: Not at the same rate as we have improved our rail system. The

National Rail Corporation will mainly be running the main line routes and not be tied up in the regional railway system. Western Australia will not be involved in any interstate rail freight at all because of the specific provisions within the Bill.

Hon George Cash talked about giving away our assets and destroying the Western Australian rail system. That is a pessimistic view as we will not be giving away any assets. They will be transferred and we can receive shares for them. They can be leased on long term arrangements. A number of other methods of transfer for the rolling stock and other such things are available within the agreement. These issues must be approved by Parliament. Therefore, whatever we transfer will be reflected in our equity share in the corporation as established after five years. This will be achieved through the allocation of shares at that stage. If rolling stock and other such facilities are not transferred, our equity share will be affected. That is not a major problem. We are not giving away our assets; we are gaining equity in the corporation at the end of the five year period.

Also, we will not destroy our intrastate rail system, which is quite profitable. However, the interstate system currently loses the State about $10 million a year. The view is held opposite that somehow the intrastate system will be destroyed - that is unfounded.

Hon D.J. Wordsworth: Debate it with the unions.

Hon MARK NEVILL: Hon George Cash mentioned the situation in which it may be possible to run a spur line on to a major line controlled by the National Rail Corporation, say, between Kalgoorlie and Perth. No problem would arise were the State to access a line which had been transferred to the NRC.

Hon George Cash: As long as you get their permission.

Hon MARK NEVILL: That is right.

Hon George Cash: As long as you fill in the form in triplicate.

Hon MARK NEVILL: Schedule 1, clause 5(5) states -

> In the case where the Company acquires ownership of, or a long term lease of, an asset to which a rail authority still requires access, eg for intrastate rail freight or passenger services, the rail authority will be granted access to that asset pursuant to a contract . . .

It continues -

> . . . an amount that reflects the cost to the rail authority of providing access in the most efficient manner and allows the Company to meet its service standards specified in the contract.

Nobody will be ripped off, as these things can be negotiated. The Bill contains conciliation provisions if suitable arrangements cannot be made.

Hon George Cash: Why would you want to enter into that sort of agreement when Westrail controls the line right now?

Hon MARK NEVILL: Westrail controls the line at the moment. However, I spoke to the Westrail officer who will be here during the Committee stage and he informed me that the amount of interstate traffic is about equal to the intrastate traffic on the Kalgoorlie-Perth line. Obviously the intrastate traffic is mainly between Perth and Merredin. Very little of that is between Southern Cross or Merredin to Kalgoorlie. However, the interstate freight uses the entire line. Nevertheless, the amount of freight is equal in each area. Also, it has yet to be determined whether that line will be transferred to the NRC or whether it will be under a long term lease arrangement or transferred by way of shares. Any such decision will have to come to Parliament for ratification because of the provision inserted by the Leader of the National Party in another place.

Hon E.J. Charlton: Or they do not have to transfer any at all.

Hon MARK NEVILL: Exactly; this is a very flexible agreement.

Hon D.J. Wordsworth: Let us not beat around the bush: The object is that the NRC own the line between Perth and Sydney. That is obvious.

Hon E.J. Charlton: That is not the object.

Hon MARK NEVILL: The NRC may own the line between Kalgoorlie and Port Augusta; it will not necessarily own the whole of the Perth to Kalgoorlie stretch.

Hon D.J. Wordsworth interjected.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! If the interjections coming from one quarter do not cease, we will not finish this debate in the time I wish to take.

Hon MARK NEVILL: Hon George Cash said that this was a great deal for New South Wales and Victoria. It is true that $414 million will be ploughed into the National Rail Corporation. The Commonwealth will provide just under $300 million, New South Wales will provide $75.6 million, Victoria will provide $53.1 million and Western Australia will provide $8 million. Under the agreement, Westrail will be provided with compensation payments by the NRC during the five year establishment period. This will offset any deterioration which can be shown to have resulted from the transfer of its interstate business to the NRC. Those payments are assessed and paid annually. If there are problems, that clause is designed to address them.

I was told by Hon Kim Chance that this was a Ned Kelly clause. I did not understand that, and he explained that it was called this by the other States where it is believed that Western Australia is getting a very good deal. Therefore, different perspectives are held on who is getting screwed in this deal. The Eastern States think we are having a lend of them.

Hon D.J. Wordsworth: There is no such thing as a free lunch.

Hon MARK NEVILL: The Liberal Party members believe that the corporation is having a lend of us. Nobody wants a free lunch. We want a fair arrangement and the chance to make inroads into the $320 million loss incurred every year in interstate freight business.

Hon D.J. Wordsworth interjected.

Hon MARK NEVILL: We should have a talk about this at the Esperance Yacht Club in five years' time. If Hon David Wordsworth is right I will buy him a bottle of scotch and if I am right he can reciprocate.

Hon George Cash: I would hate to think the whole of Westrail was about to be raffled off for a couple of bottles of scotch. What if I buy both of you one each and we keep Westrail?

Hon MARK NEVILL: No-one can see into the future to say how successful or otherwise will be the National Rail Corporation. All we can do is make sure it is on a good footing and that good management is in place. My only misgiving about the matter concerns the seven people who have been appointed to fill the management roles. My spine shivered when I realised that four of them were economists and three were engineers. I would prefer to see that ratio altered somewhat. No doubt the seven people who will be part of the senior management of NRC are really capable people and will deliver the goods to the public of Australia.

Finally, there is room for private investment in the National Rail Freight Corporation. The Bill provides that after the five year funding establishment period, if States do not want to take up further equity, private companies can take up that equity. It should not be lost on members that there is strong pressure from industry for this Bill to be passed. I have received a series of letters from Federal Containers Ltd, TNT Limited and a number of other major transport companies which want to see this legislation proceed. They are not fools; there must be something in it for them. The Business Council of Australia has lobbied very strongly for this.

Hon George Cash: You must understand that those people represent major Eastern States interests. Western Australia doesn't mean much to them.

Hon MARK NEVILL: They are obviously moving much freight back and forth. At the end of the day, by entering into this agreement and becoming a shareholder, Western Australia will have a say in future policies about how the National Rail Corporation operates. It will know what is happening. If we are not equity shareholders we will know very little. At the end of the day we may receive a dividend from this small investment, as it turns out. I am not pessimistic about the future of this corporation; I think it has excellent potential. Australia needs to realise its potential if it is to solve its problems. This area of transport is one in which we have had many improvements over the years and this is certainly a major

leap forward. I thank at least some members - Hon Fred McKenzie and Hon Eric Charlton - for their support. I hope that the predictions of some other speakers will not be realised.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Garry Kelly) in the Chair; Hon Mark Nevill (Parliamentary Secretary) in charge of the Bill.

Clauses 1 to 8 put and passed.

Clause 9: Power of State to dispose of, lease or give or obtain access to rail freight assets -

Hon D.J. WORDSWORTH: I use this clause to draw the attention of the Chamber to something in the report of the National Rail Freight Initiative Task Force, where it says under the heading "Infrastructure arrangements" -

> . . . it should move progressively to control the rail freight permanent way outside of the major metropolitan centres where interstate freight is the predominant user. This control could be effected by outright ownership or by leasing arrangements with the various rail systems (and the rail systems negotiating running rights with the Corporation).

Does Hon Mark Nevill somehow think the line outside the major metropolitan centres will not include the line between Perth and Kalgoorlie?

Hon Kim Chance: It is not the predominant user.

Hon D.J. WORDSWORTH: Hon Mark Nevill said it was. I think he is in fairyland if he thinks the NRC will not take over our little bit. Of course that will happen; it is obvious in that task force report that that is the intention. It refers to anyone outside the major metropolitan areas.

Hon MARK NEVILL: I did not say it would take it over; I said it was to be negotiated in the future. At present half the traffic is interstate and approximately the other half is intrastate. Whether that happens will depend on what is negotiated between the two parties; that is, whether it is a long term lease, whether the line is transferred in lieu of equity later, or whether it is not transferred at all and NRC pays the State for access. A series of arrangements will be able to be entered into. I did not say which one would occur because I do not know until negotiations are complete. However, we know that, whatever happens, clause 14 provides that it must be approved by both Houses of Parliament.

Hon D.J. WORDSWORTH: Hon Mark Nevill is hanging a lot on that amendment made by the Opposition in another place. I think he has repeated it about 10 times.

Hon Mark Nevill: Does that not give you comfort?

Hon D.J. WORDSWORTH: It gives me a little comfort, but the Parliamentary Secretary is claiming it almost as his own motherhood. I would like to think we can deal with some of that aspect here, but by the time it takes place it will be almost in the past. We should not fool around; the intention of that infrastructure arrangement is that the national rail will own from Fremantle to Sydney. There are no two ways about it. If the NRC does not intend that, it should not have proposed the agreement in the first place.

Hon MARK NEVILL: I do not concede that point; it is yet to be decided. Hon David Wordsworth could be proved to be quite incorrect, particularly where Westrail is part of that network.

Clause put and passed.

Clauses 10 to 18 put and passed.

Schedules 1 to 4 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 Mark Nevill (Parliamentary Secretary), and passed.

SITTINGS OF THE HOUSE - EXTENDED BEYOND 11.00 PM

Wednesday, 2 December 1992

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.20 pm]: I move, without notice -

That the sitting of the House extend beyond 11.00 pm.

I indicate to the House that I propose we sit beyond 11.00 pm in order to complete Orders of the Day No 3 and No 5, namely the Freedom of Information Bill and the Bush Fires Amendment Bill. Motions have also been either circulated or advised by the Leader of the Opposition and Hon Peter Foss. I will also take the opportunity to table and make a brief statement in respect of the report on the Building Services Division of the Department of Corrective Services.

Hon D.J. Wordsworth: What about Order of the Day No 11? I thought you said you would bring that up?

Hon J.M. BERINSON: I have not been asked to bring it forward.

Hon D.J. Wordsworth: I thought it came up in question time.

Hon J.M. BERINSON: My indication in question time was very clear. If the Opposition wished to take up my earlier invitation to nominate a private member's Bill as having sufficient priority to be dealt with tonight, I would support that being done. In spite of whatever Bills are to be dealt with, I have had no indication of that. That is the current position. We should have some sort of clear idea of both the extent and limits of the time beyond 11.00 pm to which we should go. I hope I have given sufficient indication of that. I should clarify one other matter: It is my intention to move, immediately after consideration of this motion, that the Commission on Government Bill be dealt with forthwith purely for the formal purpose of moving its adjournment to the next sitting of the House.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [10.23 pm]: I oppose the motion moved by the Leader of the House. While it may suit the purpose of the Leader of the House to say that he wants to conclude Orders of the Day No 3 and No 5, by bringing the motion in its present form -

Hon J.M. Berinson: I think there may have been some misunderstanding. I indicated that that is what I hope to achieve.

Hon GEORGE CASH: Irrespective of what the Leader of the House thinks he might want to achieve, at the moment we have an open-ended motion which means that we can sit here until 9.00 tomorrow morning. That is unreasonable and unrealistic in view of the fact that I have made it clear to the House on a number of occasions that the coalition is happy to come back here in week four or five or any other week so that the business of the House can be debated in an orderly and proper manner.

Hon David Wordsworth drew to the attention of the Leader of the House Order of the Day No 11, the Stock (Brands and Movement) Amendment Bill, and posed the question as to why we would not deal with that. The Leader of the House indicated that he had not been asked that that would be one of the matters that should be dealt with. Quite conveniently the Leader of the House has forgotten an agreement that he made last week that Order of the Day No 9, Recoup of Party Donation (ALP) Bill, would be one of the Bills dealt with today.

Hon J.M. Berinson: You are wrong. If you want to do it, we will do it. That is a straight offer.

Hon GEORGE CASH: The Leader of the House cannot be trusted.

Hon J.M. Berinson: I am not going to take this garbage.

Hon GEORGE CASH: The Leader of the House cannot be trusted, and that is half his problem.

Hon Kay Hallahan: He can always be trusted.

The DEPUTY PRESIDENT (Hon Muriel Patterson): Order! Did the Minister raise a point of order?

Hon Kay Hallahan: No.

The DEPUTY PRESIDENT: Order! Perhaps we can address the main concern.

Hon GEORGE CASH: I made the point last week that there was an agreement that Order of the Day No 9 would come on this week. Hon Joe Berinson knows that to be the case.

Hon J.M. Berinson: Have you raised it this week?

Hon GEORGE CASH: I arranged it with the Leader of the House last week when he said that two Bills would be dealt with last week and one this week.

Hon J.M. Berinson: That was two weeks ago. We dealt with two Bills in one night. If you want to deal with it, we will deal with it. That is a fair offer. Whether there is an agreement, we will deal with it if that is what you want.

Hon GEORGE CASH: That is not the point. The point is whether there was an agreement.

Hon J.M. Berinson: Do you want to get into private discussions?

Hon GEORGE CASH: The Leader of the House is misrepresenting our private discussions, and he has no right to do that.

The DEPUTY PRESIDENT: Order! At the moment we should be discussing the motion about the time to which we will sit. We are being sidetracked on other issues. Arguing across the House will not resolve anything. As I understand it, an offer has been made to deal with a particular item. Perhaps we should address whether that will be done.

Hon GEORGE CASH: I am making the point that the agreement was made more than a week ago.

The DEPUTY PRESIDENT: It has now been accepted.

Hon J.M. Berinson: No it has not. I have agreed to do it. I do not agree that I was previously committed to it.

Hon GEORGE CASH: In respect of the motion before the House that we sit beyond 11.00 pm, as there is no other time imposed on it as to when we might conclude I move -

To add the words "but not beyond 1.00 am"

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.28 pm]: I ask the House not to accept this amendment. I very much hope that the business I have referred to will be completed by 1.00 am and, on our side, we will be making every effort to cooperate to ensure that that is possible. So far as Government business is concerned I am asking for the processing of only two items.

Hon George Cash: Which could take seven hours, and you know it.

Hon J.M. BERINSON: It could take seven weeks. I am discussing the amendment. I hope very much that it will be possible to complete consideration of the limited number of items I have referred to by 1.00 am.

Hon George Cash: You will have no objection to the amendment then.

Hon J.M. BERINSON: I also indicate that it is in the hands of the House to adjourn any Bill at any stage if it comes to the conclusion that that is necessary. I believe there is a case at this stage of the session for more flexibility than the Leader of the Opposition is proposing in this amendment, and I therefore oppose it.

Division

Amendment put and a division taken with the following result -

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Ayes (13)

Hon J.N. Caldwell	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon George Cash	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon P.G. Pendal	*(Teller)*
Hon Peter Foss	Hon W.N. Stretch	

Noes (14)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Sam Piantadosi
Hon T.G. Butler	Hon Tom Helm	Hon Tom Stephens
Hon Kim Chance	Hon B.L. Jones	Hon Bob Thomas
Hon Reg Davies	Hon Garry Kelly	Hon Fred McKenzie
Hon John Halden	Hon Mark Nevill	*(Teller)*

Pairs

Hon Barry House	Hon Doug Wenn
Hon Muriel Patterson	Hon Graham Edwards
Hon R.G. Pike	Hon Cheryl Davenport

Amendment thus negatived.

Motion Resumed

Division

Question put and a division taken with the following result -

Ayes (14)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Sam Piantadosi
Hon T.G. Butler	Hon Tom Helm	Hon Tom Stephens
Hon Kim Chance	Hon B.L. Jones	Hon Bob Thomas
Hon Reg Davies	Hon Garry Kelly	Hon Fred McKenzie
Hon John Halden	Hon Mark Nevill	*(Teller)*

Noes (13)

Hon J.N. Caldwell	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon George Cash	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon P.G. Pendal	*(Teller)*
Hon Peter Foss	Hon W.N. Stretch	

Pairs

Hon Doug Wenn	Mr House
Hon Cheryl Davenport	Hon R.G. Pike
Hon Graham Edwards	Hon Muriel Patterson

Question thus passed.

COMMISSION ON GOVERNMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

Adjournment of Debate

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.38 pm]: I move -

That the debate be adjourned until the next sitting of the House.

HON P.G. PENDAL (South Metropolitan) [10.39 pm]: I would like the Government to indicate what is going on. Quite specifically, the agreement between the Parliamentary Secretary handling this Bill and me was that the Government wanted to proceed with this Bill today. It was on that basis that the Government introduced its Bill this afternoon. The Opposition adjourned the debate so that it could be dealt with tonight. Some members have made arrangements for tomorrow and without consultation with the member of the Opposition handling this Bill, the Leader of the House has made his own decision. It is not good enough and is typical of the sort of fodder approach the Leader of the House has been taking not only in this end of the year ramrod session, but also in the time I have been in this place. I will vote against the motion.

Question put and passed.

STATEMENT - BY THE MINISTER FOR CORRECTIVE SERVICES

Corrective Services, Department of - Building Services Division Report Tabling

HON J.M. BERINSON (North Metropolitan - Minister for Corrective Services) [10.40 pm] - by leave: In addition to making a statement I seek leave to table a report on the building services division of the Department of Corrective Services.

Leave granted. [See paper No 661.]

Hon J.M. BERINSON: I have previously indicated that on 7 July 1992 the Department of Corrective Services initiated an internal review into the operations of the department's building services division. The review was commenced by the department's executive director following concerns relating to management practice in the division.

In August I was asked a number of detailed questions without notice on this subject. I indicated in my replies that the review arose from concerns held by the executive director that all procedural requirements appropriate to the building services division may not have been fully complied with. On 8 October 1992 I received an incomplete draft report from the executive director suggesting a number of shortcomings in the management practices and record keeping of the division. I was asked if I would table this draft.

My consistent reply has been that as the draft report referred to was incomplete, and as the officers potentially affected had not at that time been given the opportunity to respond, it would be unfair, and indeed improper, to do so. Following consideration of the draft and submissions by affected officers, the Public Service Commission agreed that the report should be dealt with from that stage by the commission itself. I subsequently informed the House that the Public Service Commission had engaged a consultant to assist it in this task. I also undertook to table the commission's report when it became available.

I today received the Public Service Commissioner's advice and the consultant's report which guided it. The commissioner has advised me that the consultant worked at all times with an officer of the Public Service Commission and that his work has been subject to careful Public Service evaluation. The consultant's report confirms what I have said many times; namely, that the department's incomplete draft was unbalanced at the stage it had reached when brought to my attention because it had not yet had the input of affected officers. It was not at a stage when public release would have been reasonable or fair.

The consultant in preparing his report has had the benefit of the department's draft report and supporting material and, importantly, the input of affected officers and others. He has identified and reported on important issues and has also expressed surprise that some of the incorrect practices in the division were not noticed much earlier by either internal audit or the Auditor General.

The advice of the Public Service Commission and its consultant is in the nature of an interim report which has been necessarily abbreviated to allow it to be provided within the strict time limits which I had set in order to meet my intention to table it before the recess. The material I tabled makes clear the need for further action to ensure that potential breaches identified in the report are fully analysed and that the best possible departmental systems are in place for the future. I have two things to say about the need for more work. Firstly, as soon as the executive director made his initial review of available material he recognised the need for a dedicated and ongoing working party to continue the review of the department's systems. This working party is already in place and involves in addition to departmental staff a project officer and a quantity surveyor seconded from the Building Management Authority, a cost accountant from the Water Authority, and a contract and supply specialist from the Department of State Services. The office of the Auditor General has also been consulted with a view to obtaining his assistance.

Secondly, as well as the working team the Public Service Commissioner has recommended the formation of a steering group comprising senior officers from the Public Service Commission and the Auditor General to be chaired by the Executive Director of the Department of Corrective Services. This seems to me to be desirable. It will be considered as soon as the executive director returns to his office this Friday.

Pending the further work to which I have referred, and again in consultation with the Public Service Commission, the following measures are already being taken: Firstly, close attention

is being given to the management structures of the building services division; secondly, all action necessary to ensure that future building work complies with legislation and Government policy is being undertaken; thirdly, administrative records and information management systems are being reviewed and upgraded; fourthly, financial controls are being tightened; and fifthly, product testing procedures are being reviewed. I am satisfied that the department is moving in the right direction and that it will vigorously pursue all further necessary action.

MOTION - STANDING ORDERS SUSPENSION

Metropolitan Region Scheme Amendment No 840/33 (Substantial), Disallowance

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [10.45 pm]: I move, without notice -

> That so much of Standing Orders be suspended as would allow me to move the following motion -
>
> > That motion No 14 appearing on today's Notice Paper and referring to the disallowance of Metropolitan Region Scheme Amendment No 840/33 (Substantial) be debated forthwith to its conclusion at today's sitting.

I have moved this motion because members would realise that motion No 14 on the Notice Paper is in effect a disallowance motion which needs to be moved, debated and carried if it is to have the effect of disallowing the Government's intention in this matter. Motion No 14 is headed "Metropolitan Region Scheme Amendment No 840/33 (Substantial) - Disallowance". Under that motion I had intended to move -

> That the Metropolitan Region Scheme Amendment No 840/33 (Substantial) published in the *Government Gazette* on 11 September 1992 and tabled in this House on 15 September 1992 be, and is hereby, disallowed.

The motion refers to tabled paper 393A. This is a matter of public importance given the fact that the Government has clearly indicated to the House that it will be running for cover at some stage tomorrow; that is, that it wants to close down the Parliament so that it cannot properly consider a huge number of items currently listed on the Notice Paper.

The only method I have to raise this matter is to seek a suspension of the Standing Orders of this House to allow this matter to be debated to its conclusion at today's sitting. This is not a typical regulation, if I may use that phrase. This is a substantial amendment and the provision for disallowance is discrete; that is, it is self-contained within the provisions of the Town Planning and Development Act. As the amendment is not a section 42 regulation as defined in the Interpretations Act, Legislative Council Standing Order No 153 does not apply. The effect is that if the motion is not moved or is moved but not carried the amendment continues to have full force.

As I said earlier, the amendment was tabled in the Legislative Council on 15 September 1992. The background on this matter is the Government proposed some time ago that two areas of land sometimes referred to as Neerabup but comprising lot 2, in area approximately 385 hectares, lot 1, 65 hectares, and location 2579, which comprises an area of approximately 379 hectares, be rezoned from rural to urban. Lots 1 and 2 abut Carramar Park, which is currently a special rural subdivision on the western side. On the eastern side is the Lake Adams subdivision. To the south of location 2579 is the townsite of Wanneroo.

For many years the people living east of Wanneroo Road have been given to understand by this Government that land east of Wanneroo Road would not be rezoned for urban purposes. However, the Government has now decided to go back on its earlier commitment to the residents in that rural environment and rezone this land for urban purposes. Lot 1 is owned by the R & I Bank and lot 2 by Homeswest. The Opposition believes that that land should remain zoned rural and, at best, in due course be rezoned for special rural purposes to fit in with the adjoining Carramar Park and Lake Adams subdivisions. Location 2579 is owned by a company known as Yatala Pty Ltd. The Opposition believes that some reason exists to consider that land for special rural rezoning in due course. That would, of course, be the subject of further review of the land in that particular area.

I do not want to enter the substantive debate that would follow if the suspension of Standing Orders is agreed to by the House. Suffice it to say, this is the only method I have available to

raise this matter in Parliament before the Government runs for cover some time tomorrow. This is a matter of substantial importance to the people in the area. I ask the House to support the motion.

A meeting was held today between interested residents of the Neerabup area, representatives from the Confederation of Affiliated Residents and Ratepayers Associations and other environmental groups and interested parties around the metropolitan area. The meeting was held in the ministerial rooms in Parliament House. The Minister for Planning, Mr David Smith, was in attendance. I attended the meeting for some time because the people representing the various interest groups were concerned that Mr Smith had misled them in respect of a number of matters that had been raised. I was asked to attend the meeting to explain the procedures of the Legislative Council. I made it clear that I had given notice of this motion some weeks ago, and that the Government had used various procedures to jam the Notice Paper so that motions could not be brought forward in the normal course of events. That being the case, the only opportunity that remained to me was to seek the suspension of Standing Orders to allow this issue to be debated.

I recognise that the suspension of Standing Orders requires a constitutional majority. That is the reason I earnestly ask the Government to support the motion in order to allow this matter to be debated to its conclusion.

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [10.53 pm]: The Government opposes the motion. I will outline the reasons that we will not agree to the suspension of Standing Orders. One of the few relevant things that Hon George Cash said tonight was that the matter is of substantial importance. Indeed it is!

The amendment proposes to rezone 829 hectares of land from rural to urban and some reservations for important regional roads. It is true to say that the land is owned by the R & I Bank and Homeswest and that it is an important source of affordable housing land close to jobs and services in the developing Joondalup Regional Centre. The land is held in large ownerships and can be comprehensively planned, developed and serviced without delay. Development of the land for special rural purposes would provide housing for only between 150 to 350 families as opposed to about 4 000 if it is developed for conventional residential purposes. Some would view special rural development as the worst form of urban sprawl, consuming large areas of land for a relatively small population, and requiring new housing land to be developed further from Perth and remote from jobs and services. Urbanisation of the Homeswest-R & I land will not damage the adjacent Carramar Park and Lake Adams special rural land. It is proposed to include special residential zoned blocks larger than one acre adjacent to Carramar Park and Lake Adams to act as a buffer between the residential and special rural developments. Therefore, the special concerns of those areas adjacent to what will be the subdivision have been taken into account with some sensitivity. Not allowing the Homeswest-R & I land to be developed for urban purposes but instead allowing special rural development would be a wasted opportunity for this land which is an important source of affordable housing and will contribute towards the cost of development of the Yatala land and other future urban areas in east Wanneroo.

As to the processes taking place in regard to the land, it has been identified as suitable for urbanisation following the State Planning Commission-Department of Planning and Urban Development studies, including the review of the corridor plan, "Planning for the Future of the Perth Metropolitan Region 1987"; urban expansion policy statement 1990, in which it is shown as category A, as areas which are relatively unconstrained for development; and the draft and final north west corridor structure plans for 1991-92. The metropolitan development plan identifies the land as the principal area of housing development activity east of Wanneroo Road during the next five years. The land is very important from an affordable housing land supply viewpoint. The public environmental review report on the proposed urbanisation has been prepared, was endorsed by the Environmental Protection Authority and was approved by the Minister for the Environment in consultation with the Minister for Planning on 24 August 1992. The advertising period for the amendment ran from February 1991 to July 1991. The draft northwest corridor structure plan was advertised concurrently. Members may recall that the draft structure plan proposed a six-lane major north-south road through east Wanneroo. This became known as the eastern perimeter arterial road.

The PRESIDENT: Order! I do not know why we have these crises. The Minister is actually

debating the motion that Hon George Cash wants to move if he is successful with his motion to suspend Standing Orders. The motion is not being debated. We are debating whether we should suspend Standing Orders. Assuming Hon George Cash gets his suspension of Standing Orders he will then proceed to say why it is a good idea to disallow the regulations. When he has finished saying that, the Minister will say all the things she has just told him; that is, that it is not a good idea. The Minister should be explaining to the House why the matter should not be debated. The only way the matter can be debated is if the Standing Orders are suspended. I do not want to tell the Minister how to carry out her task, but her task is to convince the House that no debate is necessary.

Hon KAY HALLAHAN: I thank you for that guidance, Mr President. I wanted to outline to the House the reasons the Government is not prepared to agree to the suspension of Standing Orders. I thought it was fair to offer some explanation. I think I have done that. I challenge Hon George Cash's statement about the Opposition's position. It would be interesting, if this went to a division, to see where members opposite end up; but we will not put the Opposition parties to that embarrassment. The Government believes there is no case for bringing up this matter by the suspension of Standing Orders, and it opposes the motion before the Chair.

HON J.M. BERINSON (North Metropolitan - Attorney General) [11.02 pm]: I do not intend to participate in the debate, but I wish to declare an interest. This arises from the fact that I hold some units in a unit trust with an interest in the area. I have previously declared that interest to Cabinet. This unusual situation has further unusual aspects to it. Because of the special requirements to suspend Standing Orders it would in fact make no difference whether I vote against the Bill or take a pair which effectively amounts to the same, or abstain. My understanding of the position, however, is that the proper course, having declared an interest, is to participate in the vote. I will of course support the Government's position.

Division

Question put and a division taken with the following result -

	Ayes (13)	
Hon J.N. Caldwell	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon George Cash	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon N.F. Moore	Hon Margaret McAleer
Hon Reg Davies	Hon P.G. Pendal	*(Teller)*
Hon Peter Foss	Hon W.N. Stretch	
	Noes (13)	
Hon J.M. Berinson	Hon Tom Helm	Hon Tom Stephens
Hon T.G. Butler	Hon B.L. Jones	Hon Bob Thomas
Hon Kim Chance	Hon Garry Kelly	Hon Fred McKenzie
Hon John Halden	Hon Mark Nevill	*(Teller)*
Hon Kay Hallahan	Hon Sam Piantadosi	

Pairs

Hon Barry House	Hon Doug Wenn
Hon Muriel Patterson	Hon Graham Edwards
Hon R.G. Pike	Hon Cheryl Davenport

The PRESIDENT: The vote being equal the provision of a casting vote one way or the other would not bring about an absolute majority, so the decision is in the negative.

Question thus negatived.

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Perth Market Authority - Report Tabling

HON N.F. MOORE (Mining and Pastoral) [11.16 pm]: I am directed to present a report on the Perth Market Authority on behalf of the Standing Committee on Government Agencies. I move -

That the repo.t do lie upon the Table and be printed.

Question put and passed.

[See paper No 662.]

FREEDOM OF INFORMATION BILL

Second Reading

Debate resumed from 26 November.

HON PETER FOSS (East Metropolitan) [11.18 pm]: The Opposition welcomes this Bill and the fact that at long last this Government after having promised the electors it would introduce such legislation when it came into office in 1983 has got around to introducing it. It has taken a while and probably the only reason it has developed some enthusiasm for it is becau.e members opposite do not think they will be in Government for very much longer.

Hon Kay Hallahan: That is not true.

Hon PETER FOSS: It is interesting that it has taken so long because the Liberal Party tried to introduce freedom of information legislation some years ago. Hon Bill Hassell did so without receiving any support whatever from the Government. It has been disgraceful that this legislation has been delayed for so long that Western Australia is lagging behind all other States of Australia and the Commonwealth in this respect. I am pleased to see that it did get support from the Royal Commission and that the Bill at long last has come forward. It is becoming almost as much a perennial from this Government as four year olds in kindergarten. It is a good Bill; not only is it good in principle, but the setting out and drafting provisions of the Bill are good.

This Bill is t.ie second Bill tc come before the Parliament because the first Bill that was put up was withdrawn following comments, many of them made by the Opposition; but this Bill picks up many of the changes recommended. The Opposition will be supporting much of the legislation because it contains changes sug.estedby the Opposition when the first Bill came into this place.

What is missing is the rest of the administrative group of measures. The first substantial administrative measures were brought in by the Commonwealth in a group of Bills. The first was the Freedom of Information Act. In order to be able to investigate, we need to obtain information. One cannot bring action if one does not have the information. The first thing to do was to give people information and the Freedom of Information Act qualifies people's access to documents. The Admin' trative Decisions (Judicial Review) Act entitles people, pursuant to an Act of the Commo..wealth to require an administrator to give reasons for a decision. That works hand in hand with the Freedom of Information Act because a person is then able to take some measure against Executive power if he believes it is not being properly carried out.

The third measure is the right to judicial review. In Western Australia at the moment the only way in which one can challenge Government if one does not like what it is doing is by prerogative writ. Anybody who has been involved in a prerogative writ knows there are a number of disadvantages; it is an expensive, highly technical and extremely unsatisfactory sort of relief. Sometimes it can be quite useful, but all too often the relief is unsatisfactory. The Commonwealth in its Administrative Decisions (Judicial Review) Act allowed a much cheaper and easier form of administrative review than we have in Western Australia. The final part of the Commonwealth system is the Administrative Appeals Tribunal which allows the decision to be rethought, as opposed to challenging the basis upon which the decision was made saying that mistakes were made in the way the decision was made.

Admittedly, there are limited circumstances under which that can be done. However, members must bear in mind that many administrative decisions are not made by a Government or a ministry - that is, Executive Government - but by lower ranking administrative bureaucrats. In that respect, the Administrative Appeals Tribunal was a good relief. If there is one thing missing, it is not in this Bill so much, but there should be other legislation at the same time. That was recognised by the Royal Commission into Commercial Activities of Government and Other Matters. Recommendation 3 in the second report stated -

An Administrative Decisions (Reasons) Act be enacted as a matter of urgency in accordance with the 1986 report of the Law Reform Commission of Western Australia in Project No 26 Part II.

It is interesting that the freedom of information legislation was recommended to be enacted as a matter of priority, whereas the suggested Administrative Decisions (Reasons) Act was to be enacted as a matter of urgency. The only recommendation on the Commission of Government Bill, which will be before the House soon, was that it be enacted without delay. If the three Bills were to be prioritised I would list them in the following order: Urgency, priority, and without delay. For some reason the Bill which was defined as "urgent" is not even being looked at. I am pleased to see that we are dealing with the Bill which was defined as "a matter of priority"; however, the one which was defined as only "without delay" appears to have been rammed through at the last minute. That is very strange. However, that is the way things go with this Government. Obviously the other Bill did not seem quite as politically beneficial to the Government and it has not given it the urgency which was requested for it.

One of the good things about the Freedom of Information Bill is that it is not only confined to the State Government but also deals with local government. That is a sensible approach. People are probably affected more in their daily lives by local government and minor matters. It is important that that ability exists. The Ombudsman's annual reports show that a large proportion of complaints he receives relate to local government. People cannot have their complaints satisfied effectively without the ability to receive information. Ultimately, I hope that freedom of information will not lead to more disputes, but to fewer. Much dispute in our community arises out of misunderstanding and poor communication. People think of all sorts of terrible things which the Government is doing. How many times have members heard rumours, particularly in this Parliament? All sorts of rumours are circulated and people get quite uptight about things which apparently are going to occur. Then, when the information becomes available, they find that the concerns all too often are not justified.

Hon Derrick Tomlinson: It is even worse.

Hon PETER FOSS: The sooner people find out about those rumours and deal with them, the better. The communication that is to be afforded by the Freedom of Information Bill will be good for the community. The principles of administration are also excellent. As stated in clause 4 it -

(a) assists the public to obtain access to documents;

(b) allows access to documents to be obtained promptly and at the lowest reasonable cost; and

(c) assists the public to ensure that personal information contained in documents is accurate, complete, up to date and not misleading.

That is an excellent idea. If problems do apply to the granting of access it may relate to exempt agencies. Two principles for exemption are contained in the Bill; exempt agencies and exempt matter. Generally, the exempt matter would cover everything that is needed to be covered anyway. I am concerned that some bodies are listed under the exempt agencies that should not be. The only basis for which the exemption of those agencies could be justified is upon the principles that are set out in the list of exempt matter. One of the requests for change of procedure which came forward and which the Opposition suggested, and which also was endorsed by the Law Society of Western Australia, is the basis on which people are to respond. The concept is of a permitted period, which was set at 45 days after the access application was received. Generally, that may be a reasonable period.

Many times in the law a date is set, not so much because that is time in which it is thought the action will occur, but to provide a trigger point for somebody who wants to take further action to say, "The 45 days have passed; now I may take action to require them to do something." The problem about setting a trigger point date such as that is that sometimes more time is required, and other times less time will be adequate. The Law Society suggested that the real obligation should be to do it as soon as possible. The trigger point is recognised only as a trigger point. However, situations may arise where it is essential to an individual who wants to take some form of action - admittedly, it would have to be a prerogative writ because the other administrative procedures do not apply - and requires the

document urgently, and the Government has the document and could provide it. Does the agency play a waiting game and use the ability to put it off for 45 days so that the person is effectively defeated from exercising his or her remedy? Quite plainly, if it is put that way, the answer must be that agencies should not be allowed to do so. Clauses 13(4) and 13(5) indicate that the commissioner is entitled to reduce the time allowed to an agency to comply with subclause (1). Clause 13(1) states -

> . . . the agency has to deal with the access application as soon as is practicable (and, in any event, before the end of the permitted period) . . .

Opportunities also exist to extend the period, but the essential point is that when urgency is required, there can be urgency.

I am concerned also about some of the provisions relating to charges. The Opposition was concerned to make certain that the charges were reasonable, not so much reasonable for the time taken, because that may be a reasonable charge, but that it may be beyond all possible means of the applicant. That has been set out in some detail in clause 16. However, I am concerned that a provision in the Bill goes against the principle; that is, clause 16(1)(g) which states -

> a charge must be waived or be reduced if the applicant is impecunious . . .

The concern about that is that we may end up with the straw applicant. Anybody is allowed to make an application. If a person is impecunious he may soon become non-impecunious by offering to make applications for information under this legislation. He could say, "I am impecunious; therefore, you must waive the charges for me." A person may then receive the information free, and the whole basis of making charges is lost.

Hon Mark Nevill: Would you contemplate an amendment to that clause?

Hon PETER FOSS: I would certainly contemplate an amendment to that clause. It is of concern to me. The ideal of totally waiving a charge is silly and goes beyond the basic principle of the Bill. At the Opposition's request an amendment has been included in clause 27 relating to electronic information. Nowadays some of the most important information is reported electronically. The classic example of that was a case reported by the Ombudsman about a year or two ago of a man who was detected by a radar gun speeding along Mounts Bay Road, I think. He challenged the policeman who had charged him with speeding saying that he could not possibly have had the correct radar reading. When the police officer insisted that it was done correctly, the man reported the matter, which was investigated internally. The result of the investigation indicated that the radar gun had been used quite properly and that the radar reading was correct. The man then complained to the Ombudsman who investigated the matter and found that the internal investigation was wrong. The radar gun had been used by the police officer in a following car. The instructions relating to the radar gun stated that it should not be used in a following car. However, if it were used in that way, it had to be used by somebody who had been specially trained to use it in that manner. Nobody in Western Australia had been trained that way and, certainly, the constable had not been trained to use it in that manner. Of course, it was subject to error if it was used in that manner and the internal investigation was wrong. The Ombudsman found that the man had been wrongly charged with speeding.

One may ask what that has to do with freedom of information legislation. By coincidence, in passing, while making the investigation, the Ombudsman saw a reference to a thing called a field note. He asked what it was and was told that it is a note made by an officer on the computer noting things of relevance to other officers' investigations including suspicious circumstances, known consorting of criminals and things of that nature - basic background criminal information. The Ombudsman asked to see the field note about that man which the officer had put on the computer. The field note said, "This man is a troublemaker and tells lies about police." It might be said that was vaguely correct in that he made trouble for them, but he made it correctly in that the police had acted wrongly. However, telling lies about the police was totally wrong. The concern was that if this man had been stopped by a policeman anywhere in Western Australia and, I understand, under certain circumstances anywhere in Australia, the police officer would have quick access to a computer and would get up, "This man is a troublemaker and tells lies about police." Apparently, any policeman has the right to put nasty notes about people on a computer. This man, who had quite rightly objected to

what the police said and showed up their internal investigations and procedures, faced the possibility of really getting himself into trouble no matter where he went in Australia simply because of the computer note. Apparently that information would have even been available to police overseas if it were requested through Interpol. Therefore, this man's reputation with police worldwide stood the chance of being damned where ever he went. That information was recorded electronically.

We have asked for clause 27(1)(g) to be included in the Bill because of the manner in which electronic information is stored. It could be given in a totally incomprehensible manner - it might be the way it is on the computer - but it could be handed over in such a way that the person -

Hon Garry Kelly: Binary numbers.

Hon PETER FOSS: That is right; work them out if you can. That did not seem to be a very good idea.

Hon Mark Nevill: I can only count to two.

Hon PETER FOSS: The Parliamentary Secretary has only to count to one with binary information. Obviously, that electronic information is not just restricted to those sorts of records; very large quantities of the records we will be talking about here that are essential to the current day will be in that form.

Clause 32 concerns me although I will not be moving an amendment to it because it needs to be dealt with in the second reading stage. I think the words "third party" are in the wrong spot. I think it should read, "An individual other than the applicant, but the third party". Clause 32(2) sounds quite reasonable. However the trick is in the definition "personal information". This Bill has a slightly different form than usual in that instead of having the definitions at the front of the Bill, they are contained in a glossary at the back. The definition of "personal information" appears on page 91 of the Bill and it states -

> **"personal information"** means information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual, whether living or dead -
>
> (a) whose identity is apparent or can reasonably be ascertained from information or opinion; or
>
> (b) who can be identified by reference to an identification number or other identifying particular such as a fingerprint, retina print or body sample;

It seems to me a letter on a Government file in a Government office with a name and address on it contains personal information about the addressee. The mention of a name anywhere on a Government document is personal information about a person. Does that mean that any document other than one with a name in it has to be referred under this clause? I made a point of raising this matter with the administrative law committee of the Law Society. I have not moved an amendment to this clause but have raised it in the second reading debate because I think it is important that we clarify that that interpretation is not intended.

Hon Mark Nevill: What do you mean by "referred"? You said the document has to be referred.

Hon PETER FOSS: If a document makes any reference whatsoever to a person's name, I ask whether the matter has to be referred. Clause 33(2) states -

> The agency is not to give access to a document to which this section applies unless the agency has taken such steps as are reasonably practical to obtain the views of the third party . . .

As I said, I have not moved an amendment because, having raised it with the administrative law committee of the Law Society, I was given to understand that this is in common form. It is certainly in the Victorian Act and it may well be in the Commonwealth Act. There the view has not been taken that the mere reference to a name is enough to constitute personal information; there must be something of the character of personal information in it, not merely a passing reference, but it has to go further. The definition of "personal information" refers to "an individual whether living or dead whose identity is apparent". It is not enough merely if the person's identity is apparent; the character of information must be personal

information. In some ways that definition of "personal information" is not so much a definition but an expansion of the ordinary meaning of the term. It is not a pure definition saying it is information about a person whose identity is apparent. It still has to be personal information about them as opposed to being merely a form of identification. I would like the Parliamentary Secretary to clarify that matter because I think it would make a huge difference to the effectiveness of this Bill if it were given too tight a reading. I think it would defeat the whole thing because I imagine that most documents mention somebody's name somewhere and I would not like it thought that every time a document is mentioned somewhere it has to be referred. If the Parliamentary Secretary can confirm that it is his belief that it is to be of a personal nature, I would feel happier about that. Division 4 causes some concern. I must say this is one area where, although generally speaking this is a fairly well laid out Bill, it gets rather confusing. It deals with exemption certificates but it is necessary to go forward to part 4, division 3 on page 51, under clause 77 which deals with a review where an exemption certificate has been issued, to get an idea of what happens. It is necessary to read division 4 of part 2 together with clause 77 to understand the net effect of an exemption certificate. The exemption certificate deals with exempt matter under clauses 1 and 2 of schedule 1. Clause 1 relates to Cabinet and Executive Council and clause 2 relates to intergovernmental relations. They enable the Premier to sign a certificate saying it is exempt matter under clauses 1 or 2. Clause 36(2) states -

> An exemption certificate may be issued in a form that neither confirms nor denies the existence of a document but states that if it did exist it would contain matter that would be exempt matter under a specified provision of clause 1 or 2 of Schedule 1.

Clause 37 states -

> An exemption certificate establishes, without the need for further proof, that the document mentioned in the certificate contains matter that is exempt matter under the provision mentioned in the certificate, or would, if it existed, contain matter that would be exempt matter under the provision so mentioned.

It states under subclause (2) -

> Subsection (1) does not apply to section 77.

That is interesting. It obviously does not bind the commissioner so far. Clause 38 states that an exemption certificate ceases to have effect at the end of two years after it is signed unless it is withdrawn by the Premier or ceases to have effect under section 77 before the end of that period. However, subsection (1) does not prevent the Premier from signing a further exemption certificate in respect of the same document. Going forward to clause 77, it allows the commissioner, on the application of the access applicant, to consider the grounds on which it is claimed that the document contains exempt matter or would, if it existed, contain exempt matter. The clause further states that the agency is a respondent to an application and the Premier is entitled to be a party to proceedings in relation to the application. Subclause (3) states -

> If, after considering the matter, the Commissioner is satisfied that there were no reasonable grounds for claiming that the document contains exempt matter or would, if it existed, contain exempt matter, the Commissioner has to make a decision to that effect, and has to include in the decision the reasons for the decision and the findings on material questions of fact underlying those reasons, referring to the material on which those findings were based.

That sounds pretty good. The certificate has been issued, and if nobody challenges that, it is the end of the matter; but a person can go to the commissioner and ask for it to be reviewed. Subclause (4) states -

> If a decision is made under subsection (3), the exemption certificate ceases to have effect at the end of 28 days after the decision was made unless, before that time, the Premier notifies the Commissioner in writing that the certificate is confirmed.

As soon as the Premier comes back the certificate is effective. Subclause (5) states -

> The Premier has to cause a copy of a notice given under subsection (4) -
>
> (a) to be laid before the Legislative Assembly and the Legislative Council within 5 sitting days of that House after it was given.

Subclause (7) states -

> If the Premier withdraws the exemption certificate before the end of the period of 28 days referred to in subsection (4) the Premier has to notify the Commissioner and each party as soon as is practicable.

The effect of that is that it can be reviewed and the commissioner can say it is not exempt material but, if the Premier within 20 days says that it is confirmed that is the end of the matter.

Hon Mark Nevill: It is transferred to the Parliament.

Hon PETER FOSS: It comes to the Parliament but Parliament cannot grant access to that person. I find that quite offensive for a number of reasons and mainly because it is turning back the clock about 40 years, at least. I refer the House to a decision of the High Court of Australia in 1978 in the case of Sankey v Whitlam, detailed at page 1 in volume 142 of the *Commonwealth Law Reports*. As the name indicates, Sankey v Whitlam was the case involving as defendant Mr Whitlam and others. The others were R.F.X. O'Connor, Dr J.F. Cairns and the Hon Mr Justice Murphy who were being prosecuted for alleged offences under section 86(1)(c) of the Crimes Act of the Commonwealth. In the course of that prosecution a number of documents were sought to be subpoenaed and used. The question arose as to whether they were subject to Executive privilege. The court considered it and held that it was not so much the fact of whether they were subject to Executive privilege, but rather a fairly important point previously decided in the Conway v Rimmer case in the United Kingdom, which is referred to in a number of places in this case. Prior to Conway v Rimmer, it had been considered that the exemption certificate related to Executive privilege by a Minister of the Crown was the end of the matter. If the Minister said it was subject to Executive privilege, then it was subject to Executive privilege. Furthermore, it was thought that Executive privilege overrode any other considerations and that was the end of the matter. Conway v Rimmer was fought in 1958 and is referred to on page 948. It was decided by the High Court, which followed Conway v Rimmer and went further than it, first of all that the court had the right to inspect the documents to determine whether there was Executive privilege or not. The exemption certificate was not the end of the matter, it was a question for the court to decide whether Executive privilege applied to the document. The second point was that even if Executive privilege applied to the documents, it was still a matter of competing public interests and the court could decide that, notwithstanding that Executive privilege applied, there was nonetheless an overwhelming interest in the public to do something else. At page 38 of the report, Acting Chief Justice Gibbs says -

> I must now attempt to state the principles according to which we must decide whether the documents which the Commonwealth seeks to withhold should nevertheless be produced and admitted in evidence, and whether the documents which the Commonwealth is willing to produce should nevertheless be withheld.

Although the Executive can take the point of privilege, another rule is that the Executive privilege must be enforced by the court if it comes to its notice, whether or not anybody has taken the point. It continues -

> For convenience I have spoken of the claims that the documents should be withheld from production as claims to privilege . . .

It then goes into whether that is an appropriate wording. It continues -

> The decision in *Conway V. Rimmer* . . . did more than merely decide that an objection validly taken to the production of a document on the ground that it would be injurious to the public interest is not conclusive; it threw a new light on the principles governing the exclusion of evidence whose admission would be contrary to the public interest. The principles which I am about to discuss apply in relation to oral as well as to documentary evidence, but since in the present case it has been agreed that it would be premature to deal with the objections taken to oral evidence, I may confine my remarks to the application of the principles to documentary evidence.
>
> The general rule is that the court will not order the production of a document, although relevant and otherwise admissible, if it would be injurious to the public interest to disclose it. However the public interest has two aspects which may conflict. These were described by Lord Reid in *Conway V. Rimmer* . . . as follows:

> "There is the public interest that harm shall not be done to the nation or the public service by disclosure of certain documents, and there is the public interest that the administration of justice shall not be frustrated by the withholding of documents which must be produced if justice is to be done."
>
> It is in all cases the duty of the court, and not the privilege of the executive government, to decide whether a document will be produced or may be withheld.

That is an important point. It is appropriate that matters of public interest be decided by the court rather than be treated as a privilege of Government. It is ill-advised in a matter such as this to make it subject to a political decision. We are trying to give the ordinary person a right of access to these documents. It may be said that the ordinary person already has access to these documents through the Parliament because any document can be produced if the Parliament so orders. However, we are trying to take this matter out of the political arena and give the ordinary citizen a direct right to documents. If we believe that is right, we should not allow to be left out documents subject to Executive privilege. If documents are not subject to Executive privilege, they should be handed over. If a court decides that the documents are not subject to Executive privilege, why on earth should the matter go to the Parliament? What possible basis would there be for referring it to the Parliament? An independent body which is the highest court in our State has said, "We have looked at these documents and you are wrong. That is our finding. We have read the Act, we have looked at the facts, and the documents do not fall within paragraphs (1) or (2)." Why on earth should the Premier be able to say they do? Why should the Parliament be consulted about whether the Premier is correct? We can be absolutely certain that those members in the same party as the Premier will say, "Of course the Premier is right", and that those people on the other side will say, "Of course the Premier is not right." Where does that get the ordinary citizen? He will be caught in the middle of a political battle when all he wants is access to his documents, documents which the Supreme Court has already decided are not subject to Executive privilege. Why are we making a political battle of this matter when the facts and the law have already been decided against the Executive?

It seems to me to be quite muddled thinking that the Executive cannot trust the Supreme Court to make these decisions. That was the sort of belief that existed prior to Conway v Rimmer in 1968 and in Australia prior to Sankey v Whitlam in 1978. It is a fair time ago that that idea disappeared. Since then, we have had the first Bropho case, where again the concept of the immunity of the Executive, by reason of the hangover from the time when it was a king on a horse, has been dispelled. It seems rather strange to have a Labor Party, which, generally speaking, has an anti-royalist sentiment, putting forward these sorts of concepts of Executive privilege and immunity which are derived from a monarchical system. That seems to be quite foreign to the sorts of pretensions which are being put forward. I cannot understand why members opposite are taking this attitude. Perhaps people who have been in Government for this long tend to get monarchical ideas.

Hon Tom Helm: Not maniacal!

Hon PETER FOSS: That is probably right too.

The decision continues -

> The court must decide which aspect of the public interest predominates, or in other words whether the public interest which requires that the documents should not be produced outweighs the public interest that a court of justice in performing its functions should not be denied access to relevant evidence.

In this case, we do not have that form of conflict because we say that if the documents do fall within those groups, they are not disclosed. There is no competing public interest. The case is even stronger when we are not even making a decision about competing public interest, but where we just say, "Is it in the group?" If it is not, why should it go to the Parliament?

Hon Mark Nevill: Are you not talking here about producing documents as part of a normal legal case?

Hon PETER FOSS: Yes.

Hon Mark Nevill: Freedom of information legislation does not interfere with that.

Hon PETER FOSS: No. I am saying that in a legal case there would also be the further

competing interest about whether a document, even if were subject to Crown privilege, should nonetheless be produced. I am saying that is not the case here because if it were subject to Crown privilege, it would not be produced, and if it were not subject to Crown privilege, it would be produced. The reason I have cited that case is that, in the case of ordinary litigation, the court is allowed to look at the document and to make the decision, not the Executive, and in a legal case the court goes one step further and says, "Not only do we make the decision about whether the document is subject to Crown privilege, but we then also make another decision about whether the Crown privilege is so important that the public benefit to be gained by that would outweigh the public benefit of the document's being allowed into the court case." I am saying that we do not even have that second step, but there seems to be no reason at all why we should not have the first step. We have a law, and why should not that law be interpreted by a court in the normal way? In respect of every other law which we have, the final decision on that law is made by the Supreme Court. In this case, the final decision is made by the Premier.

Hon Mark Nevill: But she is accountable to the Parliament.

Hon PETER FOSS: Yes. However, why have a law where the ultimate tribunal is the Premier? Why do we have a judiciary? The Constitution reveals that the whole point of having a judiciary is that it look at the law, hear the facts, and make decisions on the law. With every other law, that is the situation. However, in this case, the person who looks at the facts and reads the law is the Premier.

Hon Tom Helm: It may be because a political decision needs to be made.

Hon PETER FOSS: It is not a political decision. The Bill states that we will exempt certain documents. If it is not the type of document which is to be exempt, it is not subject to Executive privilege. If we say that the document is subject to Executive privilege - and that would be wrong; it is not subject to Executive privilege because it does not fit within the Bill - why should we be entitled to maintain it simply because we have issued a certificate? We might have a battle in the Parliament about it, but what will happen if we have control of both Houses of the Parliament, which it is likely we will have after the election? What will be the point then of having it go to the Parliament?

Hon Mark Nevill: What is the point of having an FOI Act?

Hon PETER FOSS: If we have an FOI Act, people will not be dependent upon the Parliament at all. The whole point of having an FOI Act is to prevent people from having to rely upon the political system and to give them a direct right of access of their own. People have a right of access now through their parliamentarians. If they really wanted a particular document, they could go to a member of Parliament, and that member could theoretically move that that document be tabled. There are some disadvantages in that. Firstly, if it applied to all documents people wanted we would spend all our time moving motions of that nature in the House. Practical problems would arise as Government members would be constrained by partisan considerations and members of the Opposition would be more inclined to pursue documents which would embarrass the Government.

Hon Tom Helm: There would be no constraint on the Supreme Court in that regard in being answerable to the Parliament, as in the matter of the use of the media during election campaigns and the decision made by the court?

Hon PETER FOSS: I am afraid that the High Court has made a number of political decisions of which I do not approve. I approve of the result, but the idea of High Court judges amending the Constitution, rather than the people of Australia, is wrong.

Hon Mark Nevill: They should interpret it, not turn it on its head.

Hon Derrick Tomlinson interjected.

Hon PETER FOSS: Yes, it has been happening since 1901, and it is getting worse. This is a phenomenon of the High Court and not the Supreme Court. It is a classic example of how things go wrong when the court makes a political decision. It should make only judicial decisions. However, the matter with this legislation is a judicial decision, not a political one.

Hon Mark Nevill: I disagree.

Hon PETER FOSS: I do not know how the Parliamentary Secretary can say that. It is straight law. It reads -

> Matter is exempt matter if its disclosure would reveal the deliberations and considerations of an Executive body, and without limiting that general description, matter is exempt matter if it -
>
> (a) is an agenda minute or other record of the deliberations or decisions of an Executive body;
>
> (b) contains policy options or recommendations prepared for submission . . .

It is either exempt matter or it is not. Why should an exemption certificate not be issued if the matter is within that definition? We will have a law and the only basis on which exemptions are defined is in clause 1 of schedule 1. If it does not apply in there, it is not exempt. However, by giving the Premier the opportunity to make a decision the application of the law is taken away from the judiciary. Under our constitution judicial decisions are given to the Supreme Court; under this provision they would be given to the Premier. That is fundamentally flawed. If members read Conway v Rimmer and Sankey v Whitlam, they will realise that it is contrary to the trend of law over the years. To apply this type of provision would be a monarchical decision by which the Executive can make the decision.

We certainly insist on the sovereign right of this Parliament. In the Bropho case Parliament was not affected by discussions about it no longer being a sovereign body in the same way as the Executive. We claim to be sovereign body, and will continue to do so. The only way to do that is to not submit ourselves to the Executive or the judiciary. In our Constitution we run both of those areas.

In the case of the administration of law it is clear that the sovereign-type Executive is just not acceptable. That has been reinforced over the years. The whole idea of having a Constitution has cut back the right of the monarch to, as they say, sit on a horse and lead the army. We have plainly made most things subject to judicial interpretation. Here we have had an arm of the law and an Act of Parliament which say that a person can request information from agencies, but if they are exempt they will be unavailable.

Hon Mark Nevill: What about 2(1)(a)? Surely that is a political decision?

Hon PETER FOSS: Clause 5(2) of schedule 1 should not be part of the Bill at all. If someone wants to justify his or her position, the evidence is submitted to the external arbitrator. That person is either right or wrong. The Parliamentary Secretary is assuming that the court will not pay any attention to the facts. The cases of Sankey v Whitlam and Conway v Rimmer refer to Executive privilege, although not necessarily for a document like this, but based on the public interest. It reads -

> In other cases, however, as Lord Reid said in *Conway v Rimmer*, . . . "the nature of the injury which would or might be done to the nation or the public service is of so grave a character that no other interest, public or private, can be allowed to prevail over it". In such cases once the court has decided that "to order production of the document in evidence would put the interest of the state in jeopardy", it must decline to order production.
>
> An objection may be made to the production of a document because it would be against the public interest to disclose its contents, or because it belongs to a class of documents which in the public interest ought not to be produced, whether or not it would be harmful to disclose the contents of the particular document. In the present case no suggestion has been made that the contents of any particular documents are such that their disclosure would harm the national interest. The claim is to withhold the documents because of the class to which they belong. Speaking generally, such a claim will be upheld only if it is really necessary for the proper functioning of the public service to withhold documents of that class from production. However, it has been repeatedly asserted that there are certain documents which by their nature fall in a class which ought not to be disclosed no matter what the documents individually contain; in other words that the law recognises that there is a class of documents which in the public interest should be immune from disclosure. The class includes cabinet minutes and minutes of discussions between heads of departments . . .

It continues -

> According to Lord Reid, the class would extend to "all documents concerned with

policy making within departments including, it may be, minute . . . and the like by quite junior officials and correspondence with outside bodies":

One reason that is traditionally given for the protection of documents of this class it (sic) that proper decisions can be made at high levels of Government only if there is complete freedom and candour in stating facts, tendering advice and exchanging views and opinions, and the possibility that documents might ultimately be published might affect the frankness and candour of those preparing them. Some judges now regard this reason as unconvincing, but I do not think it altogether unreal to suppose that in some matters at least communications between Ministers and servants of the Crown may be more frank and candid if those concerned believe that they are protected from disclosure.

It further reads -

For instance, not all Crown servants can be expected to be made of such stern stuff that they would not be to some extent inhibited in furnishing a report on the suitability of one of their fellows for appointment to high office, if the report was likely to be read by the officer concerned. However, this consideration does not justify the grant of a complete immunity from disclosure to documents of this kind. Another reason was suggested by Lord Reid in *Conway v Rimmer* . . .

> "To my mind the most important reason is that such disclosure would create or fan ill-informed or captious public or political criticism. The business of government is difficult enough as it is, and no government could contemplate with equanimity the inner workings of the government machine being exposed to the gaze of those ready to criticise without adequate knowledge of the background and perhaps with some axe to grind."

Of course, the object of the protection is to ensure the proper working of government, and not to protect Ministers and other servants of the Crown from criticism, however intemperate and unfairly based. Nevertheless, it is inherent in the nature of things that government at a high level cannot function without some degree of secrecy. No Minister, or senior public servant, could effectively discharge the responsibilities of his office if every document prepared to enable policies to be formulated was liable to be made public. The public interest therefore requires that some protection be afforded by the law to documents of that kind. It does not follow that all such documents should be absolutely protected from disclosure, irrespective of the subject matter with which they deal.

Although it is sometimes categorically stated that documents of this class will not be ordered to be disclosed, at least if proper objection is taken, it has been acknowledged in some authorities that the protection which this class enjoys is not absolute. In *Conway v Rimmer*, . . . Lord Reid recognised one exception - that cabinet minutes and the like can be disclosed when they have become only of historical interest.

In *Lanyon Pty. Ltd.* v. *The Commonwealth*, Menzies J. said . . . that there might be "very special circumstances" in which such documents might be examined. In *Attorney-General* v. *Jonathan Cape Ltd*, . . . Lord Widgery C.J. accepted that no court would compel the production of cabinet papers, but nevertheless refused an application to restrain publication of the diaries of a former cabinet Minister, which revealed, amongst other things, details of cabinet discussions and of advice given to cabinet. He said . . . :". . . it seems to me that the degree of protection afforded to Cabinet papers and discussion cannot be determined by a single rule of thumb. Some secrets require a high standard of protection for a short time. Others require protection until a new political general has taken over."

Later his Lordship said . . .:

> "The Cabinet is at the very centre of national affairs, and must be in possession at all times of information which is secret or confidential. Secrets relating to national security may require to be preserved indefinitely. Secrets relating to new taxation proposals may be of the highest importance until Budget day, but public knowledge thereafter. To leak a Cabinet decision a day or so before it is officially announced is an accepted exercise in public

> relations, but to identify the Ministers who voted one way or another is objectionable because it undermines the doctrine of joint responsibility."
>
> He concluded that there cannot be a single rule governing the publication of such a variety of matters. These remarks, although directed to a different issue, afford useful guidance in considering the present question.
>
> Although the statement that cabinet documents and other papers concerned with policy decisions at a high level ("state papers", as I shall henceforth call them) are immune from disclosure was repeated in *Conway* v. *Rimmer* . . ., it accords ill with the principles affirmed in that case. The fundamental principle is that documents maybe withheld from disclosure only if, and to the extent, that the public interest renders it necessary. That principle in my opinion must also apply to state papers. It is impossible to accept that the public interest requires that all state papers should be kept secret for ever, or until they are only of historical interest.

Leaving aside the Bill for the time being, if a court case takes place, the law is, firstly, that Executive privilege may apply. Whether it applies is decided by the court. That is a combination of fact and law and, to some extent, opinion because of the national interest. The second thing is that the court then weighs up the public interest in keeping Executive privilege and the public interest in the case. The courts have the ability to do that. It is a matter of applying the law - of looking at the facts and of testing the allegations. It is a perfectly normal judicial procedure. That can be done in a court case as well as the further step of deciding whether that Executive privilege should be allowed to stand.

In this case we do not even have the balancing of the two public interests. All we are asking is, does it actually fit within the law, or is the Premier giving a certificate outside the law, and wrongly? Why do we not have that decided by the court? It seems to be quite extraordinary that we are prepared to trust the courts to do it and take a further step of balancing the public interest in an ordinary case. Yet with freedom of information we cannot trust the courts to take even the first step. It runs contrary to the general trend in our community; to the idea of frankness in giving the citizens a right of access. It seems to me to be an "I do not want to let go" type of attitude; we cannot trust anybody else to look at our secrets. Executive Government should be prepared to reconsider that matter.

I refer now to part 3, division 1 - the right to apply for information to be amended. I understand this is the common form of legislation throughout Australia. However, I have some problems with it, particularly clause 44(1)(a). The ability to apply for personal information is a very important part of the Bill. It was suggested by the Opposition, and I note the Royal Commission thinks it is important. Clause 44 reads in part -

> (1) an individual (**"the person"**) has a right to apply to an agency for amendment of personal information about the person contained in a document of the agency if -
>
> (a) the person has had access to the document under this Act or by some other means;
>
> (b) the information has been used, is being used or is available for use by the agency for an administrative purposes; and
>
> (c) the information is inaccurate, incomplete, out of date or misleading.

Why is paragraph (a) included? What if one had not been able to get access to the document? One may have been refused access to it because it was exempt matter or with an exempt agency.

Hon Mark Nevill: Are you concerned that a person needs to have seen it?

Hon PETER FOSS: It may be with the Official Corruption Commission. What if it contains inaccurate information? One would not be able to have access to that document because the Official Corruption Commission is an exempt agency. One may know darn well that the commission has it, but one cannot prove that. The document could be with the Parole Board, the Director of Public Prosecutions, the internal investigations unit of the Department of Corrective Services, the Bureau of Criminal Intelligence, the protective services unit, or the internal affairs branch of the Police Force of Western Australia. Those are the ones most likely to hold nasty information to which one would not be given access. For all I know, the

example I gave earlier concerning the Ombudsman and that field note could be a similar situation. Every time one meets a policeman and he says, "Hang on, you're a trouble maker, aren't you?", one would have a feeling there was something written about one somewhere to which one could not gain access to have it corrected. What does that provision add to the clause? If the Information Commissioner can see the document is there, why should one need to have access to it?

Hon Mark Nevill: If it exists, it might help identify the document. One could go on a wild goose chase.

Hon PETER FOSS: I would rather people did that than have a Kafka-ish situation of chasing something they know exists, but are told they cannot see it and because they cannot see it, it cannot be amended. I can see how the convenience applies, but it is wrong in principle. To make people prove that a document exists before they are allowed to have access to it is a situation straight out of a Franz Kafka story. It is a bureaucratic solution that I think should be deleted.

Clause 44(1)(b) of the clause requires that the information has been, is being, or is available for use by the agency for an administrative purpose. That will create problems for the same reason. How does one know it is being used if one has not had access to it and been denied it because it is with an exempt agency? One really wants someone to fix the information. Those two matters are fundamental.

The next issue is purely a drafting matter, although it has some potential problems. What if the information is out of date and not misleading? What if a record in the State Archives says I am 20 years old?

Hon Derrick Tomlinson: Could I have one?

Hon PETER FOSS: That would be out of date, but it does not make the recent paper misleading. We may have on a Government file a letter that says the person under consideration is named Peter Foss and he is 20 years old and unmarried. When I was 20, that was my age and I was not married, but that is not now the case. Why should we give people the right to correct information that is out of date but is not misleading? If the information is out of date and is misleading, it is already dealt with in paragraph (c). The only reason we would correct it would be if it were inaccurate, incomplete or misleading. Why should we change it if it is not misleading? Under this paragraph, each year I could approach the Government agency to have my record that says I am 20 years old updated to show my correct age and status. If the information is not misleading, what are we worried about? Why do we want to correct the information if it is not misleading? I do not want to labour the point. This seems to me to be a fairly clear point. I suggest that paragraphs (a) and (b) be omitted and the words "out of date" taken out of paragraph (c).

I commend the Government for the provisions in part 4. I am not sure who suggested the excellent idea for the Information Commissioner. I have always been concerned with freedom of information issues. When we talk to people in the Commonwealth Government involved in freedom of information agencies, there seem to be a number of problems. We tend to get a bit of a run around, to put it mildly, when we ask for information under their legislation. There are a number of reasons for that. People do not want to put aside their normal work and go to old files to get information. If people have a guilty conscious about their actions, the last thing they will want to do is to show the relevant documents; yet the applicant is the person who wants to look at those documents. People in charge of files have the primary responsibility for their care.

There are advantages in having a responsible independent person to oversee the provision of information. Firstly, it would be the main job of those people. Secondly, we would be able to identify the cost of the provision of the information more accurately. Government departments always make a huge fuss about how much it costs to comply with freedom of information legislation. Some of the costs shown are a featherbedding exercise. Thirdly, the appointment of an independent person would get around the problem of people who have a guilty conscience about an issue being reluctant to show the documents. Further, this independent person could help a stranger who wants access to documents but does not know where to look. This would be a reasonable compromise. It enables people to look at a file quickly to see what documents should be produced. That is an effective way of dealing with this issue.

We believe the commissioner should be independent of Government and, therefore, the appointment, although by the Governor, should be subject to the approval of both Houses of Parliament. There are a number of suggestions in the report of the Royal Commission about having this approval. We would get an appointee who is satisfactory to both sides of the political fence. One of the good things about this legislation is part 6, which covers miscellaneous matters, where it deals with the burden of proof. Clause 100(2) states that, except where subsection (2) or (3) applies, in any proceedings concerning a decision made under this Act by an agency the onus is on the agency to establish that its decision was justified or that a decision adverse to another party should be made.

Obviously all the cards are in the hands of the agency which knows what is on the file, and it is quite appropriate that the onus should be on it.

Clause 110 is another important one as it deals with a person who conceals, destroys, or disposes of a document, or part of a document, who has knowingly involved in such an act for the purpose solely or otherwise of preventing the agency being able to give access to that document. I am a little concerned about the breadth of this clause. I would like to know whether that can be taken as prospectively doing it, even though an access application is not in train. An example is the yellow tabs that were removed from Mr Burke's files. They were removed to prevent anybody reading what was on them. If freedom of information legislation had been available then, it would have prevented the agency giving access to the documents. I would like to know whether the Government believes I have described this clause correctly.

I have already mentioned the exempt agencies which concern me. I cannot see why this exemption includes some agencies, but not others. The R & I Bank of Western Australia Ltd and the State Government Insurance Commission should not be included. The sorts of commercial information for which they should be exempt is already covered by the clause on exempt matter. Why should they be generally exempt from giving information when they already have all the protection they need?

I find clause 3 in schedule 1, which deals with personal information, puzzling. It makes sense, but I just do not understand it. To some extent this does bear on the question of personal information in the other question I raised. Clause 3 of schedule 1 states -

> ***Exemption***
>
> (1) Matter is exempt matter if its disclosure would reveal personal information about an individual (whether living or dead).
>
> ***Limits on exemption***
>
> (2) Matter is not exempt matter under subclause (1) merely because its disclosure would reveal personal information about the applicant.

I ask the Parliamentary Secretary to work that out.

Hon Mark Nevill: There is a similar provision in the Companies Code.

Hon PETER FOSS: I understand it in respect of subclause (2) but not subclause (1). Subclause (3) reads -

> Matter is not exempt matter under subclause (1) merely because its disclosure would reveal, in relation to a person who is or has been an officer of an agency, prescribed details relating to -
>
> (a) the person;

These make it exempt matter, but it does not get past the problem I raised earlier about whether a person has to consult before he does it. It means that a person does not have to restrict it, but does it allow him to consult?

I am pleased to advise the House that the Opposition supports the Bill.

HON DERRICK TOMLINSON (East Metropolitan) [12.21 am]: I am somewhat reluctant to follow on from Hon Peter Foss because I feel I might be accused of descending from the sublime to the ridiculous, but since we are debating the Freedom of Information Bill, probably one of the most important pieces of legislation to be presented to this Parliament this session, at this ridiculous hour I do not mind being ridiculous.

We have before us a most entertaining piece of legislative rhetoric. We have a freedom from information Bill masquerading as a Freedom of Information Bill; we have a Freedom of Information Bill masquerading as a privacy Bill. I am not quite sure whether it is freedom from information, freedom of information or a privacy Bill. I suggest the confusion between the Freedom of Information Bill and a privacy Bill is that at one stage the Government intended to introduce the two Bills conjointly. For some reason the privacy Bill fell by the wayside. It is part of the Government's perennial excuse that its legislative program is so full it cannot bring the legislation forward. Because its legislative program is so full, what it has done in this Freedom of Information Bill is introduce a series of clauses which are really privacy Bill clauses. Hence we have that confusion between a Freedom of Information Bill and a privacy Bill. On the question of the confusion between freedom of information and freedom from information, this Bill operates in a fashion similar to that of the Equal Opportunity Amendment Bill. Members might recall from the debate we had on that Bill last week it was pointed out that the principal Act operates by exemption. It states that all people are equal except under certain circumstances. In this Bill information is free except under certain circumstances. By these exemptions, this freedom of information becomes freedom from information.

I refer to the rhetoric of the Bill. Clause 3 deals with the objects and intent of the Bill and it states under subclause (1) that the objects of the proposed Act are to -

(a) enable the public to participate more effectively in governing the State; and

Commendable principles of democracy. To continue -

(b) make the persons and bodies that are responsible for State and local government more accountable to the public.

These two principles could have been taken directly from the Royal Commission's second report, which expounded these two very principles as the basic principles of democratic Government. Clause 3(2) states that the objects of this proposed Act are to be achieved by -

(a) creating a general right of access to State and local government documents;

(b) providing means to ensure that personal information held by State and local governments is accurate, complete, up to date and not misleading; and

(c) requiring that certain documents concerning State and local government operations be made available to the public.

Again commendable, but commendable rhetoric. When we turn to clause 20 of the Bill we come to the too hard basket clause. Subclause (1) states -

> If the agency considers that the work involved in dealing with the access application would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency has to take reasonable steps to help the applicant to change the application to reduce the amount of work needed to deal with it.

That is stage one of the too hard basket. I refer members again to the rhetoric of clause 3(2). We then run into the too hard basket; if it is too hard and if there is too much work to be done and will divert the resources of the agency, the applicant should be assisted to change his mind. Clause 20(2) states -

> If after help has been given to change the access application the agency still considers that the work involved in dealing with the application would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency may refuse to deal with the application.

When we move from rhetoric to reality we have a denial of access on the simple grounds that it is too hard to do what the objectives of the Bill state it is intended to do - give people access to documents. We then turn to clause 21, which states -

> If the applicant has requested access to a document containing personal information about the applicant, the fact that that matter is personal information about the applicant must be considered as a factor in favour of disclosure for the purpose of making a decision as to -
>
> (a) whether it is in the public interest for the matter to be disclosed; or

(b) the effect that the disclosure of the matter might have.

If a person makes an application for documents about himself or herself it is an important factor, according to this clause, in determining whether the disclosure of that document is in the public interest. We have here a confusion between public interest and private rights.

Here we have freedom of information which says that in determining whether an individual has right of information about himself held in a public document we must determine whether his right to personal information is in the public interest. Not only do we have to determine whether the right of access to private information is in the public interest, but also we have to consider the effect the disclosure might have.

Hon Mark Nevill: Reference to exempt documents is in schedule 1.

Hon DERRICK TOMLINSON: Why should it be an exempt document? If we pursue the notion of freedom of information, what should be exempt? I will tell the Parliamentary Secretary what should be exempt: Only a handful of things which are governed by protection of the national security, protection of the national economy, protection of the judicial process, protection of police processes and that is about as far as one can go. So far as this nanny State saying that a document relating to an individual will be taken from that individual or denied him because it is an exempt document is concerned, that is nanny State gone mad. It is certainly not freedom of information - it is freedom from information.

Hon Mark Nevill: It maybe a document the Director of Public Prosecutions has.

Hon DERRICK TOMLINSON: So what? The member is suggesting that because the Director of Public Prosecutions has a document affecting an individual that individual has no right to know what the Director of Public Prosecutions knows about him.

Hon Mark Nevill: That may be a case where it is not in the public interest.

Hon DERRICK TOMLINSON: In that case, it would be covered by the question of protection of judicial or police procedures and that is about as far as it would go. It is certainly denying the individual's right to information about himself or herself.

Hon Peter Foss interjected.

Hon DERRICK TOMLINSON: I think the limitation on police procedures does not relate to the individual himself but to the proper conduct of police activities. I move to the question of refusal of access. This again follows the notion that the State has the right to deny information to an individual who requests it. Clause 23 states -

(4) If a document contains personal information and the applicant, or the person to whom the information relates, is a child who has not turned 16, the agency may refuse access to the document if it is satisfied -

And this is the important thing; not the fact that a minor is being protected but the reason for the denial -

if it is satisfied -

And "it" is the agency holding documents or information about the child -

that access would not be in the best interests of the child -

The "best interests" of the child is a value judgment. This Bill seeks to empower public officials, at whatever level, to make a decision to deny information about a child because that individual adjudges it to not be in the child's best interests -

and the child does not have the capacity to appreciate the circumstances and make a mature judgment as to what might be in his or her best interests.

The assumption there seems to be that the child has made the application. Let us turn to the procedures whereby application is made. Under clause 12 the application has to be in writing, give enough information to enable requested documents to be identified, give an address in Australia where the notice under the Act can be received and give any other information or details required under the regulations and be lodged at an office of the agency with any application fee payable under the regulations. I suggest that any child who might be able to do that would pass any test of capacity to make a judgment as to his appreciation of circumstances of what is in his best interests. I turn to clause 23(5) which states -

> If a document contains personal information and the applicant, or the person to whom the information relates, is an intellectually handicapped person, the agency may refuse access to the document if it is satisfied that access would not be in the best interests of the person.

When are we going to stop being so damn patronising and paternalistic about intellectually handicapped people? Intellectually handicapped people may make application for documents relating to themselves in the form that I have just read to the House with a full written application, identification of the document and explanation of the document so that it can be identified, and any other relevant information. Intellectually handicapped persons, some of whom probably sit on the Government benches, may be adjudged by the agency that it is not in their best interests to have access to the documents.

It is mind boggling to entertain the circumstances in which a public official in an agency can make that judgment on the simple ground that he believes that the intellectually handicapped person would be somehow damaged by gaining access to that information. How does one define an intellectually handicapped person? Is it someone whose IQ is below the norm? If the norm is somewhere between 90 and 110 or 95 and 105, is a person with an IQ of 90 not qualified to have that information? Does a person with an IQ of 80 not qualify? This is nothing more than an insult to the intelligence of this Parliament and the dignity of people who may be deemed to be intellectually handicapped. Even if they are so handicapped, why should they be denied the same civil liberties as every other individual; that is, the right to information about themselves? Because they are on the lower end of the scale of intelligence are they to be denied civil liberties?

Why do we not reverse that and say that those at the upper end of the scale of intelligence, because they too are abnormal, shall not have the same civil liberties? If one is to apply a test of abnormality for the denial of civil rights then one cannot discriminate on abnormality at one end of the scale and not at the other end of that scale. If we were to say that it is not in the best interests of the intellectually handicapped person to have access to documents we should also be saying that under this clause it is not in the best interests of the intellectually superior person to have access to such documents. I see one or two intellectually superior persons sitting smugly in the corner feeling quite secure that we have descended from the sublime to the ridiculous.

Hon Peter Foss: We could say that intellectually superior people have more rights and make it completely illogical.

Hon DERRICK TOMLINSON: The question of exempt matter, which turns this freedom of information Bill into a freedom from information Bill, reaches its climax in schedules 1 and 2. In those schedules the exempt matter and the exempt agencies identify another hypocrisy of the legislation. I have suggested that there are very few conditions which should apply to the exemption of freedom of information. Those exemptions are spelt out clearly in the Victorian Act and in the Commonwealth Act. They relate to documents affecting national security, defence or international relations; Cabinet documents; Executive Council documents and those related to business affairs, and so on.

In schedule 1 of the Bill before us some of that exemption is contained: Cabinet and Executive Council, intergovernmental relations and commercial or business information. I have no objections to those, with the exception that the moment one specifies the exemption of a document, the moment it is defined, the definition becomes an inhibition upon access to information. I illustrate by reference to intergovernmental relations, which describes an exemption as -

> Matter is exempt if its disclosure should reasonably be accepted to damage relations between the Government and any other Government or would reveal information of a confidential nature communicated in confidence of the Government whether directly or indirectly by any other Government.

That, on the surface, is quite reasonable but the application of a reasonable proposition can become unreasonable. I illustrate: As a postgraduate student I poured for 10 years over the proceedings of what was then called the Premiers' Conference. Access to the proceedings of the Premiers' Conference was relatively easy. I simply wrote to the Department of the Prime Minister and Cabinet annually and asked it to send the proceedings of the Premiers'

Conference to me. The department did so. The proceedings were in three parts. I was always sent parts 1 and 3; part 2 related to the Loans Council and the documents were confidential, not to be released. I was not interested in them anyway. I did that for 10 years.

Then, in 1982, the FOI Act was introduced in the Commonwealth. I was no longer allowed access to those documents. They were confidential. So I applied under the FOI Act for access. The response was that someone from Canberra rang to say that it would cost $75, yet the same documents for 10 years had been granted free. It took simply a letter to the Department of the Prime Minister and Cabinet and they were sent to me. If the ministry officers did not have them, they photocopied them and sent them over; but after the FOI Act was introduced it would cost me $75. The person asked me whether I still wish to proceed. I think the $75 was there to inhibit me from proceeding. Being a financially well-endowed postgraduate student, brushing that aside, I said, "Go ahead; $75 is nothing." Then came the next telephone call, "Mr Tomlinson, we are dreadfully sorry but we will have to deny you access." I asked why, because I had had access for 10 years. The answer was, "Under the FOI Act, if the access to the document damages relations between the Commonwealth and the States, they are exempt, so you cannot have them." He said that he had phoned around the States and that Queensland said that I could not have them. I was asked what I wanted them for and I told him. I was asked to wait for a moment and then he said, "Just a moment. It's not there; save your $75." That is a ridiculous consequence of imposing exemptions because we then have the - I hesitate to say it - bureaucratic application of the rule, the inflexibility of the written law, the constraint of the regulation; commonsense goes by the board. Those things which were previously readily available, in the case I illustrated, became no longer available because they threatened relations between the Governments of the Commonwealth and the State.

In his address Hon Peter Foss referred to the 10 years between the conception and the reality of this FOI legislation. It was introduced as a plank of the Labor Party's electoral platform in 1983; in December 1992 it will be given birth. It is a long and troubled gestation. On 12 January 1985, an article published in *The West Australian* under the heading "Delays to WA information Bill attacked" read -

> The State Government is unnecessarily and purposely holding back on its promised freedom-of-information legislation, according to a former WA fighter for civil liberties, Mr Bruce Bell.
>
> Mr Bell, currently head of the New South Wales freedom-of-information committee has returned to Perth to investigate the progress of the legislation in WA.
>
> After discussions at the office of the Attorney General, Mr Berinson, yesterday he is not happy with that progress.
>
> "I was told that the legislation was intended to be introduced in the Burke government 's second term of office . . .
>
> "I was also told that the legislative programme for this year was so full that the Government couldn't fit it in even if it wanted to."

That sounds familiar. I can understand Mr Evan's wry laughter because for how many weeks have we been sitting here twiddling our thumbs waiting for legislation? We find ourselves now at 12.50 am dealing with the legislation, which has finally arrived - only nine years late. Another interesting reason for the delay is given in the newspaper article and attributed to a spokesman for Mr Berinson -

> A spokesman for Mr Berinson said that the Government was not deliberately delaying the introduction of legislation.
>
> The Government was keen to investigate the Victorian legislation and the proposed South Australian legislation to iron out the loopholes.
>
> The Government's commitment to introducing the legislation would be honoured.

In 1985 one of the reasons for the delay was that the Government was waiting for the Victorian legislation to iron out the loopholes. In the Legislative Assembly on Thursday, 9 October 1986 Mr MacKinnon asked a question on notice to the Minister representing the Attorney General -

(1) Has the Government received any approaches from organisations within the community to legislate to provide a "Freedom of Information Act" for Western Australia?

(2) If so, is the Government giving consideration to legislating along these lines?

Mr Dowding replied -

(1) Yes.

(2) The Government is monitoring the operation of the Commonwealth Freedom of Information Act, together with the various State's legislation.

No legislative proposals are currently before the Government.

Following the introduction of a private member's Bill for freedom of information, on 17 September 1989 Mr Hassell asked a question of the Minister for Justice in another place -

(1) Will the Government recommend the provision of a Message so that the Freedom of Information Legislation can be properly debated by the House?

(2) If not, why not?

(3) Is the Minister correctly reported in suggesting that the Bill presented by the Opposition does not go far enough?

(4) If not, what is the position, correctly stated?

(5) Why does the Government not propose amendments to the Opposition Bill?

(6) Will the Government Bill be introduced in the first part of 1990?

(7) If not, when?

The Minister for Justice provided the following reply -

(1)-(7)

The Government will not be recommending the provision of a Message, as the Member's Bill appears to be based largely on the relevant Victorian Act which is itself under comprehensive review.

It is the Government's intention to introduce appropriate legislation on this matter in the next session of Parliament, after there has been sufficient opportunity to take into account reviews such as that proposed in Victoria, and other information relating to the efficiency or otherwise of similar Acts in other States or the Commonwealth.

From 1985 until 1989 the consistent excuse of the Government was, "We are waiting for a review of the Victorian legislation." The thirty-eighth report of the Legal and Constitutional Committee of the Parliament of Victoria on the Victorian legislation was published in November 1989. The very first conclusion, which this Government was waiting for before it could proceed with its own legislation because it wanted the Victorian legislation to iron out the faults before it proceeded, stated -

> The Committee recommends that there be no exemptions by agency under the Freedom of Information Act.

The reason given by the Committee is instructive. Paragraph 3.21 states -

> . . . the Committee is satisfied that the existing exemption provisions of the FOI Act have proven to be effective in protecting confidentiality where this is required for the proper and efficient conduct of government. With very limited exceptions, which will be dealt with shortly, each agency appearing before the Committee to argue that it should be exempted acknowledged that the FOI Act had not forced it to disclose information which it believed should remain confidential. Considering that the Act has now been in operation for seven years, this is an impressive record. Given that record, the Committee does not believe that the case for specific agency based exemptions has been made out.

Schedule 2 of the Bill before the House lists exempt agencies, which include the Legislative Council or a member or a committee of the Legislative Council; the Legislative Assembly or a member or a committee of the Legislative Assembly; a joint committee or Standing

Committee of the Legislative Council and the Legislative Assembly; and a department of the staff of Parliament. Every word spoken in this Parliament is recorded in *Hansard*, which is a publicly available document, yet this Legislative Council and the other place are exempt from the freedom of information legislation. Each of us in this place and our staff are exempt from that legislation. The Government in the rhetoric of this Bill states in clause 3 that the objects of this Act are to enable the public to participate more effectively in governing the State and to make the persons and bodies that are responsible for State Government and local government more accountable to the public. However, the very institution which is the prime institution responsible for governing the State, this Parliament, is exempt. The Parliamentary Secretary is referring me to clause 6, which applies to documents already available. That does apply to *Hansard*. If we as parliamentarians are accountable, not merely through *Hansard*, but in every action that we undertake, if this House should be open to public scrutiny, if this House should facilitate the dissemination of information to enable an informed public to participate more meaningfully in the process of government, how can we claim to be an exempt agency? It is nothing more than stuff and nonsense.

The R & I Bank of Western Australia and the State Government Insurance Commission are also exempt agencies. I can understand to some degree that the commercial operations of the R & I Bank should be protected by a clause which prohibits access to information which would in some way threaten the operations of a bank or any other institution. That is not the case, because the R & I Bank is an exempt agency. I am sure Mr Keith Simpson would be grateful for that, because a few years ago the R & I Bank was not an exempt agency and information about the confidential records of financial transactions of Mr Simpson was leaked.

Hon P.G. Pendal: That cost Mr Pearce his job.

Hon W.N. Stretch: A couple of others in this place would not joke about it either.

HON DERRICK TOMLINSON: Now we have the R & I Bank Ltd blanket exemption and the State Government Insurance Commission blanket exemption. One then starts to wonder about the purpose of this exemption from freedom of information. Let us return to clause 6 of schedule 1, which states -

> (1) Matter is exempt matter if its disclosure -
>
> (a) would reveal -
>
> (i) any opinion, advice or recommendation that has been obtained, prepared or recorded; or
>
> (ii) any consultation or deliberation that has taken place,
>
> in the course of, or for the purpose of, the deliberative processes of the Government, a Minister or an agency;
>
> and
>
> (b) would, on balance, be contrary to the public interest.

If that were to apply, nothing relating to WA Inc would ever have come out. This Government, which is all fired up with enthusiasm for demonstrating openness and accountability, in the light of the first and second reports of the Royal Commission and in the light of the Premier's comments, "Let's not look back on the past; let's look forward to the future", has introduced legislation exempting documents which are absolutely essential if a properly informed public are to participate in the government of this State.

I began my remarks by saying that what we have in this Bill is a conflict between freedom of information and freedom from information. A conflict exists between this freedom of information and a privacy Bill. Those issues are not satisfactorily resolved in this Bill. It is nothing more than a piece of legislative rhetoric. In that legislative rhetoric, given the history and the deviousness of this Government, one cannot help but ask, "Why?" What are the Government's motives? On the one hand it is espousing openness and accountability, but on the other hand it is making sure that enshrined in this law is the very secrecy which enabled all of the excesses of the 1980s to be perpetrated.

Finally, I draw members' attention to the Supplementary Notice Paper where an amendment

is foreshadowed by Hon Mark Nevill, the Parliamentary Secretary in charge of the passage of this Bill, to exempt from the provisions of the Freedom of Information Bill the records of the Royal Commission into Commercial Activities of Government and Other Matters. Mr Deputy President, I smell a rat.

HON MARK NEVILL (Mining and Pastoral - Parliamentary Secretary) [1.03 am]: I am in a dilemma about how many of the questions which have been asked should be responded to in the second reading debate and how many should be responded to during the Committee stage of this Bill. Perhaps if I focus on the clauses which do not have amendments it may help to avoid duplicating the debate.

Firstly, I thank members opposite for their support of the Bill, even if that support is qualified to some extent. The Bill is certainly an improvement on what is available now, even if the changes do not go as far as some members would like. Hon Peter Foss mentioned the Commonwealth and its administrative Bills - the Freedom of Information Act and the Administrative Decisions (Judicial Review) Act - and also the Administrative Appeals Tribunal which was set up by the Commonwealth. A lack of those sorts of provisions has existed in this State. The Freedom of Information Bill is seen as an important step in the process here because, as in the Commonwealth, its first step is to grant access to information before people can appeal decisions and take matters further.

Hon Derrick Tomlinson complained about the lack of other companion Bills coming before the Parliament and mentioned the privacy Bill. That is a valid comment. The Government has been working on the Administrative Decisions (Reasons) Bill, but that will not be debated this session, simply because of the Government's legislative program.

Hon Derrick Tomlinson: That has been said for nine years.

Hon MARK NEVILL: That does not mean that work has not progressed on those Bills. Enough legislation is before members in this session without adding further Bills.

Hon Peter Foss commented on some of the Royal Commission's recommendations. He referred to the difference between recommendations being implemented without delay, with urgency and as a priority. I can honestly say that my interpretation of the degree of priority of urgency of those three was the exact opposite to that of Hon Peter Foss. That probably reflects on the Royal Commission to some extent; that is, that it did not indicate clearly enough which recommendations it considered should be implemented first or in what order they should be implemented.

Some of the comments of Hon Peter Foss do not require reply from me. He was pleased to see that the Bill included local government. He also referred to exempt agencies and exempt matters. He said that he did not think any exempt agencies should exist and that the schedule which covers exempt matters should cover most of those areas. That matter can be dealt with more specifically during the Committee stage. It highlights the differences between approaches. If an agency is exempt, no application for access can be made. The internal appeals process in that case would not apply.

The member referred to clause 16 of the Bill, which relates to charges for access to documents. That can probably be dealt with better in Committee. I agree with his comment about clause 16(1)(g), which states -

> A charge must be waived or be reduced if the applicant is impecunious;

I agree that, if a person is impecunious, he can be set up as a straw man and make applications for journalists and all sorts of other people without any cost. That does, to a large degree, open the floodgates. It would be subject to regulation. Perhaps the regulations could put some controls on the straw man situation to which the member has drawn attention. That amendment was put in the Legislative Assembly by, I think, one of the Independent members. It does not say that a charge must be waived; it says it should be "waived or be reduced". It does not necessarily mean that if a straw man keeps putting in applications for access to documents, charges for those have to be waived in every case. Perhaps, if a person makes a habit of that sort of thing, the fees can be increased or reduced to a lesser extent than previously.

Hon Peter Foss' next comment related to clause 32, documents containing personal information. He asked me to confirm whether the information contained in these documents

needs to be of a personal nature and not just include a person's name. I think it is fairly clear that it has to be more than just a person's name. I wish also to draw attention to clause 32(6) which states -

> This section does not apply if access is given to a copy of the document from which the personal information referred to in subsection (1) has been deleted under section 24.

Therefore, a person can be provided with access to an edited document.

Hon Peter Foss: The problem is that it is incomprehensible.

Hon MARK NEVILL: Not necessarily.

Hon Peter Foss: If you have deleted all the names, you can't tell who is doing what to whom.

Hon MARK NEVILL: The Bill refers to a third party. Another name may not be critical to that document. In that sense, it can be edited and provided to the person.

Hon Peter Foss: Have you ever got a police document with names blanked out?

Hon MARK NEVILL: My lawyers have made application under the Federal Freedom of Information Act. It cost me a lot of money.

Hon Peter Foss: All of the names are obliterated, and you can't tell who is saying what to whom. Every time a name comes up it is blanked out.

Hon MARK NEVILL: A person who gets a document under clause 24 that has matter deleted from it does not have to go through all of the consultation process that he has to go through when it does not contain material that is deleted. The member referred to the Sankey and Whitlam case which I think dealt mainly with matters that come before the courts about gaining access to particular documents. I do not really think that this assists a lot in this situation because that is a normal process that occurs in the courts every day. Freedom of information legislation does not apply in that situation.

Hon Peter Foss: It is an answer; I am not sure it is a very good answer.

Hon MARK NEVILL: To tell the member the truth, the member was reading from the judgment so quickly that I could not follow most of it. I followed it for about 10 minutes. However, with my short term memory, I had difficulty in keeping up with it. I understand there is an indirect relationship between FOI and arguments about access to documents. However, that is a normal matter that occurs in the courts.

The member asked why exemption certificates were in division 4 of the Bill. The main reason for that is that part 2 deals with all general matters relating to the access to documents. A Premier's certificate would prevent that initial access to the document.

The next point raised related to clause 3 in schedule 1. The member saw some contradiction between subclause (1), which states that matter is exempt if its disclosure would reveal personal information about an individual, whether living or dead, and subclause (2), which states that matter is not exempt under subclause (1) merely because its disclosure would reveal personal information about the applicant. The word "merely" is included because the matter may be exempt under another exemption.

Hon Peter Foss: If it is under another exemption why bother having it at all because you end up with two exemptions?

Hon MARK NEVILL: I said by interjection that there is a similar provision in company law. It has changed now but in some cases a second reason is needed to justify an exemption. In relation to clause 110 the member asked whether the provision relating to the destruction of documents applied prospectively. It does apply prospectively because it states that -

> A person who conceals, destroys or disposes of a document or part of a document or is knowingly involved in such an act for the purpose (sole or otherwise) of preventing an agency being able to give access to that document or part of it, -

The next part is the critical section -

> - whether or not an application for access has been made, commits an offence.

Hon Peter Foss: Even if it is not even contemplated and you think that nobody knows it exists and would not be thinking of looking for it, you are still caught as long as in your mind is the possibility of avoiding FOI.

Hon MARK NEVILL: Basically the member is saying that if a person thinks that someone will apply and conceals or destroys the document before an application is made -

Hon Peter Foss: He would definitely be caught up in those circumstances. I am thinking that you have a document, you do not have anybody in mind who might apply, but you think that one of these days somebody might want to look at that document and could get it under FOI. Before that eventuality even occurs, you decide to get in now and destroy it. That should be covered.

Hon MARK NEVILL: That person would be preventing an applicant from getting access to the document, and that situation is covered.

Hon Derrick Tomlinson made some general comments about freedom of information and referred to the Bill as the freedom from information Bill. However many shortcomings he considers the Bill has, every aspect of this Bill provides greater rights of access to documents than is currently the case. Even if the range of exemptions were too broad for the member's liking at this stage, there will always be a need for some exemptions and it is a question of where to draw the line. This Bill goes a long way towards giving people more access to documents. The member also referred to clause 20, which states that an agency may refuse to deal with an application in certain cases. If an application were refused under the provisions of this clause, the applicant could still go to the Information Commissioner and, if need be, to the Supreme Court at the end of the day. The applicant has that right of appeal. I could not understand the member's problem with this clause.

Clause 21 relates to the nature of information to be provided. This clause applies where an exemption contains a public interest test. The fact that it actually applies to the applicant personally must weigh in favour of saying that access is in the public interest.

The next point Mr Tomlinson raised was in relation to his research on the Premiers' Conferences. He mentioned that the information to which he had access disappeared when the Commonwealth FOI Act was proclaimed. That exemption on intergovernmental relations exists in all FOI Acts to my knowledge. If the information is publicly available, access can be obtained under clause 6. The FOI Bill will not apply in situations where the information is already available. Clause 23(5) refers to intellectually handicapped persons. If such persons are denied access to information under this clause, they can apply to the Information Commissioner or to the Supreme Court for a review of that decision. Applications can also be made on such persons' behalf by other persons who are specified in clause 98.

Hon Peter Foss made fairly strong criticism of the exemption for Parliament. That exemption probably has more to do with the separation of powers than any other aspect. The FOI Bill is directed basically at the Executive, and the Parliament should not be subject to an arm of the Executive. If the R & I Bank Ltd and the State Government Insurance Commission were not exempt agencies and had to rely upon specific exemptions, they would be subject to all of the costs of processing applications, when none of their competitors in the private sector would face costs associated with the FOI Bill.

I do not know whether I have answered all of the matters raised during the debate and, if I have not, perhaps they can be dealt with at the Committee stage, when I will only have to remember them one at a time rather than in large tranches. With those comments, I thank members for their support.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Garry Kelly) in the Chair; Hon Mark Nevill (Parliamentary Secretary) in charge of the Bill.

Clauses 1 to 7 put and passed.

Clause 8: Effect on other enactments -

Hon MARK NEVILL: I move -

Page 4, after line 25 - To insert the following subclause -

(4) The application of subsection (1) is subject to clause 16 of Schedule 1.

Hon PETER FOSS: The Opposition does not see any reason for this amendment, and opposes it.

Hon MARK NEVILL: This amendment relates to the amendment to clause 16 of schedule 1 in respect of the records of the Royal Commission into Commercial Activities of Government and Other Matters. This amendment, together with the amendment which I shall move later to schedule 1, is consequent upon the passage of the Royal Commission (Custody of Records) Bill 1992. That Bill provides for the custody, control and access to documents of the former Royal Commission. The Bill is expressed to apply notwithstanding any other Acts. As currently drafted, the Freedom of Information Bill would also apply to access to documents of the former Royal Commission. That Bill is also expressed to apply notwithstanding other Acts. This amendment, together with the later amendment which I foreshadow, will make it clear that access to documents of the former Royal Commission will be governed by the Royal Commission (Custody of Records) Bill 1992 by excluding those documents from the Freedom of Information Bill.

Hon PETER FOSS: I said that I did not understand the need for this amendment, not that I did not see how it worked. If we have a general rule that there should be access to documents, and we have the exempt matter which is provided for here, surely all of the problems we have got would be covered. I cannot see that there is anything particular about Royal Commission documents which does not allow exempt matter to deal with it completely. Surely that is the reason that exempt matter includes confidential communications, legal professional privilege, deliberative processes, law enforcement, public safety and property security, commercial business information, personal information, and the effective operations of agencies; and even precious metal transactions might lead to some exemptions!

Hon Derrick Tomlinson: A bit of fool's gold there!

Hon PETER FOSS: I was thinking about Brian Burke's trading in gold.

I do not see the need for this amendment. I think that all of the principles are enshrined in schedule 1. Hon Derrick Tomlinson and I have indicated that we think the proper way to go is to do it by the principles. Even though the Government has purported to put it in schedule 1, it is really a schedule 2-type exemption because it does not deal with the content of the matter so much as with an agency.

Hon DERRICK TOMLINSON: In addition to the matters raised by Hon Peter Foss, we should remember that the Royal Commission (Custody of Records) Bill provides that those documents shall be, under the terms of the Library Act, stored in the State Archives. In addition to the documents being stored in the State Archives, the Royal Commissioners, as public agents under the Bill, can specify that certain of those documents can be classified, which means, according to their recommendation, there will be no access for 30 years, 60 years, or whatever it is they specify. In addition to all of the constraints upon access which are contained in the Freedom of Information Bill and in the Library Act, and in addition to all of the constraints upon access which are decided through the operations of the State Archives, I suggest that exempting the Royal Commission documents from the Freedom of Information Bill is quite an unnecessary procedure.

Hon MARK NEVILL: The problem is that both Acts contain provisions which override all other Acts. Therefore, which Act would apply? This amendment will tell us which one to apply. It is a ridiculous situation with two Acts overriding all other Acts. This amendment indicates that the Royal Commission (Custody of Records) Act applies to the documents of the Royal Commission; these would not relate to the FOI legislation.

The constraints which Hon Derrick Tomlinson discussed were covered when the Royal Commission documents Act was passed, so we have been through that argument. It is more of a procedural question. Two identical provisions cannot be competing. One must take precedence so people will know which Act will apply. This amendment makes it clear that

people who want access under the Royal Commission legislation will have to apply under that Act.

Hon PETER FOSS: Frankly, I think the Parliamentary Secretary has the wrong section. Clause 8 is not the priority. The Bill contains a preservation clause with reference to the Legal Aid Commission.

Hon Mark Nevill: It is schedule 1, clause 14, on page 87. We are following exactly the same procedure.

Hon PETER FOSS: I do not like it because the only Royal Commission documents one would want to exempt from this legislation is the type which would apply to the library legislation; that should be preserved. However, no other Act should be preserved. Material that is in the hands of the Director of Public Prosecutions is dealt with separately. If the records are sent to the State Archives and no embargo is in place, why not make it subject to the freedom of information legislation? This will lead to problems as identified by Hon Derrick Tomlinson when he could not obtain records in relation to intergovernmental relationships.

Hon MARK NEVILL: The debate about who should gain access to Royal Commission documents was covered comprehensively in the debate on the Royal Commission legislation.

Hon Peter Foss: It deals with custody and not access.

Hon MARK NEVILL: Which Act would the member use to apply for records?

Hon PETER FOSS: Royal Commission documents at the moment are in the hands of the Royal Commissioners or the Director of Public Prosecutions. Otherwise they will soon be on their way to the Library Board. If they go to the Library Board and they are subject to an embargo, I would agree that the embargo should apply. If they are not subject to an embargo, access should be gained through the freedom of information legislation. Whether it is possible to obtain access through other legislation is a matter of some interest.

Hon MARK NEVILL: The question of access arises in the Royal Commission (Custody of Records) Act. This shows the difficulty in trying to read the two measures together, and highlights the need for some direction as to which Act will apply for certain information.

Hon Peter Foss: It does not say that. It makes an exempt matter. If it said that it did not take precedence over the custody of records legislation, I would understand it. Why make it subject to that Act rather than clause 16? If you want to do that, why not make it subject to the Act rather than part of this legislation?

Hon MARK NEVILL: I am advised that it is basically a drafting issue. That is the way that Parliamentary Counsel said it could be best handled this way.

Hon PETER FOSS: The clause should be postponed. I intend to vote against the Government's clause 16. If we postpone this clause and deal with clause 16, we could deal with the amendment then.

Further consideration of the clause postponed, on motion by Hon Mark Nevill (Parliamentary Secretary).

Clauses 9 to 37 put and passed.

Clause 38: Duration of certificate -

Hon PETER FOSS: I move -

Page 25, after line 18 - To insert the following new paragraph -

(c) it ceases to apply by reason of an order under section 85(4),

Page 25, line 20 - To insert after "subsection (1)" the following -

other than paragraph (c),

This will take into account the fact that the court makes an order under clause 85(4). There are certain consequences as to the duration of the certificates.

Hon MARK NEVILL: It would be helpful if we postponed the amendment until after we have dealt with clause 85 because it is consequential on that amendment. I move -

To postpone this amendment.

Hon PETER FOSS: I do not want to do that; this is a fairly minor amendment. I realise it is dependent upon clause 85, but if I do not receive support for this amendment, it is not fatal to clause 85. I would like to test the vote on this issue to see, at least, who is awake, apart from anything else.

Question put and negatived.

Hon MARK NEVILL: Will Hon Peter Foss please explain what is an order under clause 85(4). There is no order from what I can see.

Hon Peter Foss: It will be part of new clause 85.

Hon MARK NEVILL: The amendment does not make any sense without the new clause in the Bill. It would be therefore better if we postponed the matter.

The CHAIRMAN: We cannot do that because the decision has been made not to postpone it.

Hon MARK NEVILL: The Government will oppose the amendments because they do not make sense.

Division

Amendments put and a division called for.

Bells run and the Committee divided.

The CHAIRMAN: Before the tellers tell I give my vote with the Noes.

Division resulted as follows -

Ayes (14)

Hon J.N. Caldwell	Hon Peter Foss	Hon W.N. Stretch
Hon George Cash	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon P.G. Pendal	*(Teller)*

Noes (13)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Sam Piantadosi
Hon T.G. Butler	Hon Tom Helm	Hon Bob Thomas
Hon Kim Chance	Hon B.L. Jones	Hon Fred McKenzie
Hon Graham Edwards	Hon Garry Kelly	*(Teller)*
Hon John Halden	Hon Mark Nevill	

Pairs

Hon Barry House	Hon Doug Wenn
Hon Muriel Patterson	Hon Tom Stephens
Hon R.G. Pike	Hon Cheryl Davenport

Amendments thus passed.

Clause, as amended, put and passed.

Clauses 39 to 44 put and passed.

Clause 45: Right to apply for information to be amended -

Hon PETER FOSS: I move -

Page 29, lines 7 to 11 - To delete the lines.

I dealt with this adequately during the second reading debate.

Hon MARK NEVILL: I oppose the amendment moved by Hon Peter Foss. Clause 45(1)(a), which he intends to delete, is included to make it clear that a person may apply to correct personal information contained in a document of an agency however the document was obtained. It is correct that the clause will require the person to have had access to it and not merely have heard about the document. It is unlikely that a person who has not had access to a document would be in a position to identify the document or the corrections required.

Clause 45(1)(b) is included to make it clear that an agency cannot be required to correct a document which it holds without making any use of it. For example, an agency should not be required to correct a general reference or fiction book held in its library.

Division

Amendment put and a division called for.

Bells rung and the Committee divided.

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

Division resulted as follows -

Ayes (14)

Hon J.N. Caldwell	Hon Peter Foss	Hon W.N. Stretch
Hon George Cash	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon P.G. Pendal	*(Teller)*

Noes (13)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Sam Piantadosi
Hon T.G. Butler	Hon Tom Helm	Hon Bob Thomas
Hon Kim Chance	Hon B.L. Jones	Hon Fred McKenzie
Hon Graham Edwards	Hon Garry Kelly	*(Teller)*
Hon John Halden	Hon Mark Nevill	

Pairs

Hon Barry House	Hon Doug Wenn
Hon Muriel Patterson	Hon Tom Stephens
Hon R.G. Pike	Hon Cheryl Davenport

Amendment thus passed.

Hon PETER FOSS: I move -

Page 29, line 12 - To delete the passage ", out of date".

I have amply covered this amendment, and I do not wish to speak further.

Hon MARK NEVILL: I oppose the amendment. The addition of those words would not limit the clause. It gives it an extra ground. It expands the ground on which someone can apply for an amendment to a document containing personal information about that individual. I do not see that the deletion of the words will narrow the ground on which the document can be amended, and these words are in the legislation in all the other jurisdictions.

Division

Amendment put and a division called for.

Bells rung and the Committee divided.

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

Division resulted as follows -

Ayes (14)

Hon J.N. Caldwell	Hon Peter Foss	Hon W.N. Stretch
Hon George Cash	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon P.G. Pendal	*(Teller)*

Noes (13)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Sam Piantadosi
Hon T.G. Butler	Hon Tom Helm	Hon Bob Thomas
Hon Kim Chance	Hon B.L. Jones	Hon Fred McKenzie
Hon Graham Edwards	Hon Garry Kelly	*(Teller)*
Hon John Halden	Hon Mark Nevill	

Pairs

Hon Barry House	Hon Doug Wenn
Hon Muriel Patterson	Hon Tom Stephens
Hon R.G. Pike	Hon Cheryl Davenport

Amendment thus passed.

Clause, as amended, put and passed.

Clauses 46 to 55 put and passed.

Clause 56: Appointment and terms and conditions -

Hon PETER FOSS: I move -

Page 37, line 7 - To delete the word "The" and substitute the following words -

Subject to the approval of both Houses of Parliament, the

This amendment is to pick up a general trend with regard to independent officers who will be supervising the accountability of Government. We wish to make the appointment of the commissioner subject to the approval of both Houses of Parliament. The change is obvious. The reason for it is a philosophical one. I believe it is appropriate that the Parliament should have control over the appointment.

Hon MARK NEVILL: I oppose the amendment. The Auditor General and the Ombudsman are appointed by the Governor and this amendment will mean that the Information Commissioner cannot be appointed without the approval of Parliament. If Parliament is not sitting an appointment cannot be made, and the legislation cannot operate without an Information Commissioner. Given that Parliament is scheduled to rise this week, this amendment, if passed, would mean that this legislation would not be operative until some time after the Parliament resumed next year.

The Minister in charge of this Bill gave an undertaking in the Legislative Assembly to provide the Opposition with a list of the names of the applicants the panel considers together with the recommendations of the panel. He said that if the Opposition believed that another person on the list should be considered he would advise the panel accordingly and ask it to reconsider its recommendation. The Minister has given this clear undertaking to the Opposition.

The amendment does not confirm the practice in other comparative positions and I put it to the Committee that the amendment will create problems, especially with the Parliament rising this week.

Hon PETER FOSS: I realise that it is not consistent with the practices of similar appointments in other States or the appointment of independent parliamentary officers. I refer to recommendation 31(a) of part II of the Royal Commission's report dealing with the Auditor General, the Ombudsman, the Electoral Commissioner and the proposed Commissioner for Public Sector Standards and Commissioner for the Investigation of Corrupt and Improper Conduct. Each of these persons are of a similar independent nature. Recommendation 31(b) states -

> *Appropriate legislative arrangements be made for the participation of the Parliament, ordinarily through its committee system, in the processes leading to the nomination of a person for appointment to each of these offices.*

We are dealing with principle, not expediency, and that is set out clearly in recommendation 31.

This Government must realise there is a change coming to this State because of the Royal

Commission's report. It is not good enough to say that appointments have not been done in this way before. We will be doing it in the future and we will do it with this officer now. The notion that the Government will not fill the position because Parliament is not sitting is wrong because under clause 59 an acting Information Commissioner can be appointed and in due course the Parliament can then appoint the Information Commissioner.

Hon MARK NEVILL: If this appointment is made subject to the approval of both Houses of Parliament only one name will be put forward at a time. Presumably we will have to keep going through the list of applicants, one by one, until a suitable applicant is appointed. I am advised that an acting Information Commissioner cannot be appointed until an Information Commissioner has been appointed.

Hon Peter Foss: It does not say that in clause 59. Subclause (c) states when the office is vacant.

Hon MARK NEVILL: My advice is that legal opinion states that an acting commissioner can only be appointed when the office becomes vacant.

Hon Peter Foss: It does not say that. We will have to debate it when we come to clause 59 to make sure that the Opposition's intention is clear in *Hansard.*

Hon MARK NEVILL: Subclause (2)(b) covers when the commissioner has been suspended and paragraph (c) covers when the office of commissioner is vacant.

Hon Peter Foss: It says when the office is vacant, not when it becomes vacant. I agree with paragraphs (a) and (b) but not with (c).

Hon MARK NEVILL: An acting Information Commissioner cannot be appointed until the position of Information Commissioner becomes vacant.

Division

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I give my vote with the Noes.

Division resulted as follows -

Ayes (14)		
Hon J.N. Caldwell	Hon Peter Foss	Hon W.N. Stretch
Hon George Cash	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon P.G. Pendal	*(Teller)*
Noes (13)		
Hon J.M. Berinson	Hon Kay Hallahan	Hon Sam Piantadosi
Hon T.G. Butler	Hon Tom Helm	Hon Bob Thomas
Hon Kim Chance	Hon B.L. Jones	Hon Fred McKenzie
Hon Graham Edwards	Hon Garry Kelly	*(Teller)*
Hon John Halden	Hon Mark Nevill	

Pairs	
Hon Barry House	Hon Doug Wenn
Hon Muriel Patterson	Hon Tom Stephens
Hon R.G. Pike	Hon Cheryl Davenport

Amendment thus passed.

Clause, as amended, put and passed.

Clauses 57 and 58 put and passed.

Clause 59: Acting Information Commissioner -

Hon PETER FOSS: I turn to the circumstances under which a commissioner can be appointed. I was concerned initially whether an acting commissioner could be appointed. It appears to me quite clearly that he can. Clause 59(2) states -

An appointment may be made under this section -

(c) when the office of Commissioner is vacant.

Under clause 55(1) an office of Information Commissioner is created. Therefore, as soon as the Bill is passed the office is created and is not filled so it is vacant. I know that under many Acts someone can only act in a capacity for someone else. This is not one of those Acts. The office is created and the Governor may then appoint a person to act in the office of commissioner as set out in clause 59(2)(c). The drafting has been done in such a way as to permit an acting commissioner if a commissioner has not been appointed. It would be wise of the Parliamentary Secretary not to disagree with me here as I am sure he would like that to be the situation.

Hon MARK NEVILL: When the legislation comes into operation we will probably need the ability to appoint an acting information commissioner. My legal advice from the draftsperson is that an information commissioner must be appointed before an acting commissioner can be appointed.

Hon PETER FOSS: I understand that that may be the legal advice given. However, the intention of this Parliament is what counts. I believe it is the intention of both parties that we appoint an acting information commissioner when the office is vacant and when this legislation is passed that position will be vacant.

Hon MARK NEVILL: I must accept that that is the case.

Clause put and passed.

Clauses 60 to 62 put and passed.

Clause 63: Functions of Commissioner -

Hon MARK NEVILL: I move -

Page 43, line 5 - To delete "agency" and substitute "agency but is not a Minister".

Page 43, line 6 - To delete "is the" and substitute "is a".

Page 43, line 8 - To delete the line.

Each of the amendments just moved is of a drafting nature and is required as a consequence of the amendment to this clause in the Legislative Assembly which sought the addition of clause 63(3)(b). The amendments do not alter the substance of the provision and simply ensure consistent drafting.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 64 to 84 put and passed.

Clause 85: Appeals to Supreme Court -

Hon PETER FOSS: I move -

Page 56, line 14 - To delete "a" where it first occurs and substitute "any".

Two effects arise from this and the next amendment I am suggesting. The first will widen the power to appeal to the Supreme Court on any decision of the commissioner relating to an application. The second will specifically allow an appeal to the Supreme Court in relation to clause 77(3) which relates to an exemption certificate and against the Premier confirming a certificate, clause 77(4), and then to provide that the Supreme Court is entitled to look at the documents and make an order that the exemption certificate no longer applies.

Hon MARK NEVILL: If this amendment to delete "a" and substitute the word "any" is allowed it would allow an appeal on every ground. It would allow an appeal on questions of law to the Supreme Court on any decision of the Information Commissioner such as those related to minor matters such as amounts of advanced deposits which should be paid. Such an amendment would only benefit wealthy applicants and third parties who could afford to take matters to the Supreme Court. It would also allow considerable delay in the processing

of applications and turn this legislation into a lawyer's feast. I do not oppose the amendment.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 56, lines 15 to 24 - To delete all words after the word "application" and to substitute the following -

(2) An appeal lies to the Supreme Court from a decision -

(a) of the Commissioner against an access applicant pursuant to section 77(3); and

(b) by the Premier confirming a certificate pursuant to section 77(4).

(3) The Supreme Court shall be entitled to access to and to view documents for the purpose of determining an appeal pursuant to subsection (2).

(4) The Supreme Court may on an appeal pursuant to paragraph (2)(b) order that an exemption certificate no longer apply to a document or to a class of documents.

I have maintained the deletions in proposed subsection (1) and I have deleted the last two lines of proposed subsection (2). The net result is that the exceptions in proposed subsection (2) are retained.

Hon MARK NEVILL: That is an acceptable amendment.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 57, lines 7 and 8 - To delete the lines.

Hon MARK NEVILL: The amendment is acceptable.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 86 to 114 put and passed.

Schedule 1 -

Hon MARK NEVILL: I move -

Page 85, line 17 - To insert after "officer" the words "or person".

This is a drafting amendment. The addition of the words "or person" in subclause (5)(b) under the heading "exemptions" are necessary to ensure consistency with subclause (5)(a) which was amended in the Legislative Assembly by the addition of the words "or by a person on behalf of an agency".

Amendment put and passed.

Hon MARK NEVILL: I move -

Page 88, after line 6 - To insert the following clause to stand as clause 16 of the Schedule -

16. Records of Royal Commission into Commercial Activities of Government and Other Matters

Exemption

Matter is exempt matter if it is a record of the Royal Commission within the meaning of the *Royal Commission (Custody of Records) Act 1992* or an extract from or a copy of, or of part of, such a record.

The amendment relates to the amendment to clause 8 which we postponed earlier. The amendment will include the records of the Royal Commission as exempt records. If that is successful the following amendment to clause 8 will make it quite clear that this Bill does not apply to these records and the Royal Commission (Custody of Records) Act will apply. I ask members to support the amendment.

Hon PETER FOSS: The Opposition is not prepared to support the creation of a further exemption for the Royal Commission (Custody of Records) Act. Exempt matters are covered adequately by this legislation and a proposed amendment to clause 8 will deal with the problem of which legislation takes precedent. It will set the regime but not create a separate set of exempt matters.

Hon MARK NEVILL: The records of the Royal Commission should be exempt under this legislation and the Royal Commission (Custody of Records) Act should be the Act by which people apply to obtain access to those records.

Amendment put and negatived.

Schedule, as amended, put and passed.

Postponed clause 8: Effect on other enactments -

Hon Mark Nevill was granted leave to withdraw his amendment.

Hon PETER FOSS: I move -

Page 4, after line 25 - To insert the following subclause -

(4) The application of subsection (1) is subject to the *Royal Commission (Custody of Records) Act 1992*.

Amendment put and passed.

Postponed clause, as amended, put and passed.

Schedule 2 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Mark Nevill (Parliamentary Secretary), and returned to the Assembly with amendments.

BUSH FIRES AMENDMENT BILL

Second Reading

Debate resumed from 25 November.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [2.46 am]: The Opposition supports the Bill. Members who have taken an interest in the Bill, which encompasses 25 pages, will know that it contains three areas of change. The first is the composition of the Bush Fires Board and the accountability of the board; the second is compensation payable to volunteer bushfire fighters who suffer an injury while carrying out their duties; the third is to allow people to use gas powered cooking appliances during summer months.

The current Bush Fires Board comprises 16 persons. They are the Executive Director of the Department of Land Administration, who is currently the chairman of the board, six persons, at least five of whom are actively engaged in the business of farming, three persons nominated by the Minister to whom the administration of the Department of Conservation and Land Management Act is committed, a person nominated by the Minister for Agriculture, a person nominated by the Western Australian Government Railways Commission, a person nominated as a representative of the insurance industry, a person nominated by the Commissioner of Police, a person appointed as a representative of the sawmilling industry and a person nominated by the regional director for the State of the Bureau of Meteorology. The Government in its wisdom has recognised that a board of 16 persons is unwieldy and has decided that that number should be reduced. The second reading speech suggests that the board should be reduced to nine persons. However, if one studies the Bill it is clear there is to be in excess of nine persons. Clause 5, proposes an amendment to section 8(3) of the Act and indicates that the Minister can appoint such persons having relevant specialised knowledge or experience as the Minister may from time

to time appoint to the board. Clearly, that is a very open ended opportunity for the Minister to appoint as many persons as he or she may wish at any one time. The Opposition has indicated by way of a Supplementary Notice Paper that it intends to move an amendment to that section to limit those additional persons to three. Members will note that in the Bush Fires Board's annual report for 1991-92 an arrangement is in place at the moment for accountability; however, certain legislation must be enacted to make the board a statutory authority. The annual report also contains other references to the legislative structure, method of accountability and the need for legislative change to the Act. In part, this Bill will address those areas.

I turn to the question of compensation. Members will be aware that for some time doubt has existed about the amount of compensation able to be provided for the volunteer firefighters who are injured during the course of their duties. The Bill intends that those people should be brought under the Workers' Compensation and Rehabilitation Act. A provision will be included to allow a top-up to a total of $2 000 should a death occur. Provision also exists to include full death benefits for a spouse, irrespective of any dependencies or dependent children. Those people who may be farmers and not necessarily in receipt of a weekly wage will be covered under a provision in the Bill which will ensure that all shires carry a minimum level of insurance for volunteers. Clause 37(2) of the Bill states -

(a) if the volunteer firefighter is a self-employed or unemployed person - either the actual weekly earnings received by that volunteer firefighter or the weekly earnings of an officer of the Department of Conservation and Land Management at Level 2, Year 5, whichever is the greater;

(b) if the volunteer firefighter is employed other than self-employed - either the weekly earnings calculated in accordance with the *Workers' Compensation and Rehabilitation Act 1981*, or the weekly earnings of an officer of the Department of Conservation and Land Management at Level 2, Year 5, whichever is the greater.

It is important that that provision in the Bill be agreed to because it will overcome some of the doubt that presently exists about how much people who are self-employed or unemployed may receive. The situation exists at the moment where from one shire to another a substantial difference could apply in the amount of compensation that is payable to a volunteer firefighter who is injured during the course of his duties. That clearly is an inequitable situation. The Bill addresses the issue of the use of gas powered cooking appliances, such as barbecues. At present, the Bush Fires Act makes no clear definition between wood fired barbecues and barbecues which use gas. The Bush Fires Board has advised the Minister that it believes that in certain circumstances gas barbecues are clearly safer to use in prescribed areas, and it is clear that wood fired barbecues may not be as safe. As such, the Bill agrees with that situation, and remedies what is basically an anomaly.

The Opposition will seek to address during the Committee stage the position of the chief executive officer acting as a chairman of the board. The Burt Commission on Accountability report, which the Government claimed to endorse when it was released two years ago, and the Royal Commission report both indicated very clearly that chief executive officers should not occupy the dual role of CEO and chairman of the same organisation. As a consequence of the recommendations of the Royal Commission, the Opposition intends to amend the relevant clause to ensure that the chief executive officer is not also the chairman of a board.

With respect to the provisions where the Treasurer can guarantee certain funds on behalf of the Bush Fires Board, which was included in Acts recently passed in this place - that is, the East Perth Redevelopment Act and the Western Australian Land Authority Act - the Opposition intends to move to insert a provision that where a guarantee is given by the Treasurer, the Treasurer shall cause the text of such guarantee to be published in the *Government Gazette* within 28 days and laid before each House within 14 sitting days of being published if Parliament is in session or within 14 sitting days of commencement of the next ensuing session. That applies to a situation where the Minister directs the board and there is provision in the Act for a Minister to direct the board. The Opposition will also move an amendment to require that such direction be published in the *Government Gazette* within 28 days and laid before each House within 14 sitting days of being published if Parliament is in session or within 14 sitting days of the commencement of the next ensuing sitting.

Undoubtedly volunteer bush firefighters have played a tremendous part in protecting the community, particularly in rural areas in Western Australia, over a very long period. The volunteer bush firefighters are not given the recognition they deserve by the community. However, the same probably applies for many volunteer organisations throughout rural Western Australia. Without the volunteer groups in the country areas of Western Australia the regions would be much the poorer. I pay due recognition to the work that is carried out by the bush firefighters. As I move around Western Australia and have the opportunity to speak with volunteer firefighters I realise that they give much of their private time to ensure that the areas in Western Australia in which they live and work are well protected at all times. For those members who have met volunteers who have had to fight fires, they will know the tremendous dedication of those people and the huge amount of money that is saved when volunteers are protecting the rural communities of Western Australia. I indicate the Opposition's support for the Bill.

HON W.N. STRETCH (South West) [3.00 am]: I support the comments of our shadow spokesperson on the Bush Fires Amendment Bill. I have worked in the bush with volunteer fire brigades all my life. I can only sing the highest praises of the work they do and the dedication that those people have for maintaining the safety of their districts. The farming community has a certain amount of self-interest in these brigades because fire travels so quickly and without adequate brigades, one person's problem quickly becomes a district's problem and, on a bad day, a fire can spread very quickly into other districts and cause the mobilisation of brigades over large areas. On a bad day I have seen fires spread into an area covering three shires which in that case would have been about 80 miles long and 20 miles wide. It calls for an enormous mobilisation of manpower and equipment. It is the sort of equipment that could never be brought together by a Government of any persuasion. The beauty is that it is dual purpose equipment that, for most of the year, serves other purposes around the farms and stations and, in the fire season, is directed towards protection of entire districts.

I will not go over the membership of the board. However, I am concerned that in the past that membership has involved members of the Country Shire Councils Association. In future, representatives will be nominated by the WA Municipal Association. I take the point from the remarks in the Legislative Assembly debate that it does not preclude representation by the Country Shire Councils Association. However, it widens the net a little further. I am concerned that the Bush Fires Board might become a bureaucratic, top heavy organisation; it has always been driven from the grassroots upwards through the brigades and shire councils and that has been part of its strength. It has been quick in the past to react to changes needed on the ground, not always as quickly, might I say, as brigades often want, but it has been an organisation which has responded to the emergency needs.

With regard to gas fires and barbecues, on a bad day there is no safe fire in the open. The striking of a match in the open is an act of gravest danger. I do not care what one does with a barbecue to attempt to make it safe, the only protection on a bad day is careful people. I worry a little about gas barbecues because, although they use gas and may be perfectly safe, things catch fire on the top of barbecues and that often causes fires. Enough has been said about that.

The really important part of this Bill is the protection of the volunteers who work at the fires. Our local brigade and the district organisation at the higher level have worked for a long time to get insurance cover extended to volunteers as an automatic response rather than to have to argue with insurance companies about whether a person was actually employed. I welcome this change in the legislation. I believe that it does not go quite far enough yet. Hon Murray Montgomery will move the amendments on the Notice Paper which extend that cover to those who take the initiative themselves rather than to have to wait for direction from a member or an officer of the brigade. It is a small point but an important one because, as with all emergency preventive measures, the quicker a fire is attended to, the quicker it is controlled. Delay of any sort can be very expensive both in the damage it does, in the time spent controlling the fire and, more importantly, in the possible loss of human life. I accept the argument that to extend the insurance cover leaves the insurance company, in this case, the SGIC, open to claims from just about anybody who maintains that he or she stopped to fight a fire. However, the amendments also cover that situation inasmuch as the person making the claim has to be able to demonstrate that he or she was attempting to put out a fire or was acting to control a fire.

There are two important points related to that. The first is that the amendment will remove any disincentive a person may have to stop and fight a fire or to take steps to stop the spread of a fire. In other words, they do not have to stop and think, "Am I covered? If I am injured, am I covered?" It would be an automatic thing under the coalition's amendment that, if a person attempted to fight a fire, he would be covered. It has also left the onus - I would welcome some clarification from either the Minister or one of the legal advisers in this Chamber on this matter - on the insurance company to disprove the person was attempting to fight or control a fire rather than as is the case at present where the onus is on the poor unfortunate victim of an accident to prove his case. I think the amendment is fairer. As these people act in a voluntary capacity, they are entitled to this protection from a caring community. Our volunteers are carers. They put in enormous amounts of time and voluntarily provide heavy and expensive equipment. Anything the community spends on covering them is money well spent.

I welcome the extension of insurance cover. It will be a great comfort to people who fight fires. We have had a couple of fatal accidents in the last couple of years and those are uppermost in a person's mind because things can go wrong very quickly when one is fighting a fire. It is probably worth pointing out to the House the sorts of hazards that we have to put up with at times. I have been driving a bulldozer cutting firebreaks and have needed a tanker in front hosing down the dozer and another hosing me down so that I could go on driving because we do work in extremes of flame and danger. People who go into that sort of hazardous situation are entitled to full protection by insurance from a grateful taxpaying community. I support the Bill.

HON MURRAY MONTGOMERY (South West) [3.09 am]: This early hour of the morning is not the time to be debating something as important as the Bush Fires Amendment Bill.

Hon Graham Edwards: Don't light one now, my friend.

Hon MURRAY MONTGOMERY: The Minister has already started a fire by bringing this Bill in here. I have been very heavily involved in the bush fire organisation in the shire in which we farmed. The residents of the Plantagenet Shire have been pushing for insurance for volunteers for a long time. Since cyclone Alby an unfortunate accident has occurred as a result of a fire. It is fairly important that it be recognised as something which has been fought for and has taken a long time to get through the parliamentary draftsmen and the Minister responsible for handling this area.

Hon Graham Edwards: It has taken a lot of consultation.

Hon MURRAY MONTGOMERY: That consultation has been going on for 14 years during which promises have been made that the Act would be changed. It has been necessary to fight for this measure but I am pleased that it has now been introduced. This measure will provide adequate protection for the people who fight bushfires. It is important to them that they have this protection. I can recall incidents in which people who have fought bushfires have encountered problems because they were not members of a fire brigade but were, for example, passing by and stopped to help. In one incident a person stopped when a truck driving up a hill was alleged to have started a fire. The person thought he should do something about the fire and he began to put it out. Largely as a result of his work the fire was fairly well under control when the volunteer fire brigade arrived to extinguish it. Unfortunately, that person incurred some injury and there was an argument with the State Government Insurance Office which said the person was not covered by insurance because he was not a member of the brigade and was not under the direction of the officer fighting the fire. Fortunately, somebody came to the party and paid for his medical expenses. The point is that the Government should be providing for those sorts of people and, as Hon Bill Stretch indicated, we shall move to ensure that it does not occur in the future. I trust that the Minister will accept the need to clarify this so that the onus is on the insurance company to say that the person was not doing an act to prevent a small bushfire from becoming a major fire.

There is one area in which the position of bushfire brigades has been clarified, and I relate a story about a particular area which was under a great deal of threat because of fuel in the area. The area had been subdivided and zoned special rural, and the land could be cleared only up to the area on which the houses would be built. However, the surrounding area

needed some control. The local brigade wanted to make sure that it was no threat and took on the task of burning it. Problems arose about whether the brigade would be covered should the fire escape. The accepted controlled burning fuel is around eight tonnes a hectare and this area presented a problem because it had fuel in excess of 25 tonnes a hectare. The problem was such that the brigade took some risks. It was worth taking the risks because in burning that area and controlling and reducing the fuel levels, the brigade was able to make the area safe. Clause 18 deals with proposed new section 35A and states in paragraph (d) that when volunteer firefighters are carrying out demonstrations, exercises, fundraising and that sort of thing, they will be covered by insurance. That is fairly important. I seek the Minister's confirmation that my interpretation of the clause is correct. It is important that brigades be covered when they are doing volunteer fire control in high risk areas.

We certainly feel very strongly that the positions of chief executive officer and chairman of the board should be separated and, as Hon George Cash said, there should be an independent chairman.

The Bill is long overdue and I am sure bushfire brigades will be very pleased about it, particularly as we approach that time of the year when fires break out. No matter how hard they try incidents will always occur when nature takes its course or some silly person wants to see how the bush burns. The volunteer fire fighters put their lives at risk to protect the community and I am aware from having witnessed several fires of major significance that they do a sterling job. The National Party supports the Bill and I am sure that people in the bushfire brigades will be very grateful to see it.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [3.19 am]: I thank members for their concise, accurate comments on the Bill and indications of support for the proposals. I start by paying a tribute to those people who have served on the board over a long period, and I also recognise the tremendous job that firefighters and their families do in helping to protect this State in the collective way that they do. I am pleased that other members have also recognised that. It is true that we have waited for quite some time, but during that time there has been an immense amount of negotiation and consultation, and of pulling people together, to ensure that when this Bill did come before the House, it would have the support of those people whom it most seeks to serve; namely, the bush firefighters and, of course, local government, which has an important role to play.

I forecast that I cannot accept all of the amendments proposed by the Opposition, for the reasons that I put forward; namely, the immense amount of consultation and agreement, and that this Bill represents that consultation and agreement. Therefore, I am not in a position to accept the amendments which are proposed. I have had no indication of any consultation with any of the groups involved, and I regret that I will simply have to refer those amendments which I cannot accept to the people with whom we have consulted over a long period of time.

I have no difficulty with the amendment to clause 7, which proposes that any direction given by the Minister shall be published in the *Government Gazette* within 28 days, or with the amendment to clause 11, which proposes that where a guarantee is given by the Treasurer, the text of such guarantee shall be published in the *Government Gazette*. Neither of those amendments will impact upon that amount of consultation which has taken place, nor upon any of the local authorities involved. We can handle those amendments without talking to those people. However, I have problems with the other amendments.

The first amendment to clause 5 seeks to delete the words "such other" and substitute the figure "3". I could reluctantly accept that amendment if Hon George Cash were prepared to insert before the figure "3" the words "up to", because the proposed amendment will require the Minister to appoint three persons, and I do not know that that is really what the Leader of the Opposition intends. I am not in a position to accept the second proposed amendment to clause 5 in respect of the position of the chairperson of the board. The purpose of the chief executive officer being the chairperson of the board is to provide a non-political chairperson to the board. Once again, an immense amount of consultation has taken place about this matter, and we have reached an agreement. I think we need to separate the board about which we are talking from some of the boards referred to in other reports. We must accept that in respect of the Bush Fires Board, we are going through a time of change. It is terribly important for there to be leadership and for the Minister to be able to rely upon someone who

is also the chief executive officer and who can provide the necessary advice and information to the Minister during this time of change. It would be quite foolish of us to seek to amend the position of chairperson in the way proposed by the Leader of the Opposition. I point out also that were we to carry this amendment, we would end up with no chairperson at all, and that would render the board inoperable. I direct the Leader of the Opposition's attention to that amendment.

The last amendment proposed by the Leader of the Opposition is very important, and I refer to the definition of "volunteer fire fighter" at page 18 of the Bill, which states that a "voluntary fire fighter" means "a bushfire control officer, a person who is a registered member of a bush fire brigade established under this Act or a person under the direction of that officer or member." Once again, an immense amount of consultation has taken place, and a definition has been accepted. That definition is the one which we find in the Bill. It would be unfortunate if we went off unilaterally, without talking to the groups which were involved in that consultation process, and changed the definition which they have come up with.

I refer Hon Murray Montgomery to clause 18, at page 16 of the Bill, which refers to "normal brigade activities", and lists the types of activities in which one could expect a volunteer firefighter to be involved. The description of those activities is very broad, and I believe that the definition of "volunteer fire fighter", coupled with what are described as "normal brigade activities", covers the circumstance to which the member referred. I cannot go any further than that at this stage. I ask members to agree to the second reading, and it is my intention to defer the Committee stage, because I need to take some advice on the amendments proposed by the Opposition. I will endeavour to do that in the course of the next few hours, although it will not be within the next three or four hours. I expect to be able to move later today that the Bill go into Committee.

Hon George Cash: I suggest you look also at the Western Australian Land Authority Act in respect of the appointment of a chairperson, and also in respect of access to information, because a couple of words need to come out. They are words which, for parliamentary purposes, we took out once before.

Hon GRAHAM EDWARDS: That matter can be dealt with quite easily. It is the other more substantial changes which members opposite are seeking by way of their amendments which we will not be in a position to deal with. Having said that, I thank members for their general support of the Bill and for their support for bush firefighters and the work which they and their families do.

Question put and passed.

Bill read a second time.

PILBARA DEVELOPMENT COMMISSION BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.30 am]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to establish the Pilbara Development Commission as a statutory authority in accordance with the main recommendation of the Pilbara 21 Draft Strategy Report. The Bill has some innovative features which will give the Pilbara Development Commission the ability to carry out the tasks described for it in the Pilbara 21 report, but at the same time making sure the commission does not cut across the role of other Government agencies or exceed its brief in any way. The establishment of the Pilbara Development Commission confirms the Government's commitment to the Pilbara region of Western Australia. It also confirms the Government's strong endorsement of the main recommendations of the Pilbara 21 study which was undertaken between July 1991 and June 1992 and drew on the expertise of the private sector, Government departments and the

Pilbara community to produce a far sighted blueprint for the future development of the Pilbara region. It was remarkable in achieving its splendid results in such a short time frame, based on extensive consultations and detailed research. As a result, the Pilbara region is now set for a spectacular period of renewed growth, particularly in downstream processing industries - a dream that has eluded the State since the start of the iron ore industry, but which is now possible thanks to the initiatives of the Government. The Pilbara 21 report stated that -

> The primary recommendation and associated strategy to achieve a commitment to the Pilbara is the establishment of the Pilbara Development Commission, which should -
>
> be based in the Pilbara
>
> promote development in the Pilbara
>
> market and promote the region
>
> be established by its own Act
>
> have a limited life of five years
>
> report directly to the Minister for State Development.

The Government supports that primary recommendation of the Pilbara 21 report and this Bill reflects those broad parameters set out for the Pilbara Development Commission.

This Bill is somewhat different from the legislation establishing other regional development authorities, reflecting the specific tasks given to the commission as a result of the Pilbara 21 report. Division 2 of the Bill lists the functions and powers of the commission, giving it the priority task in clause 12 to implement the strategies and recommendations of the Pilbara 21 report and to coordinate and promote the economic and social development of the Pilbara region. Other sections of clause 12 delineate the functions of the commission, providing it with specific tasks and roles; for example, marketing and promoting the Pilbara region and encouraging investment in the processing of minerals and other products in the Pilbara region.

Some of the main recommendations of the Pilbara 21 report in which the commission will have a primary implementation role include -

> Establishing a university college of the north west, comprising Hedland and Karratha Colleges;
>
> establishing a Pilbara employment and training unit with the aims of coordinating all employment and training in the Pilbara, upgrading the local skills base and matching the labour needs of industry with the employment needs of local residents;
>
> conducting a feasibility study into a separate Pilbara energy authority with the aim of reducing energy prices in the Pilbara to attract downstream processing industries;
>
> producing a coordinated tourism and transport development strategy to make the Pilbara one of the State's primary tourist destinations;
>
> setting up a Pilbara land use planning group to continue the land use planning strategy initiated by Pilbara 21 which aims to minimise future conflict over land use;
>
> establishing a Burrup Peninsula board of management under the Parks and Reserves Act to determine the best use of the important land on the Burrup for industrial, recreational and environmental uses;
>
> making representations to the Federal Government on reducing or eliminating taxes which impact disproportionately on remote areas - such as the fringe benefits tax and the excise duties on distillate and fuel oil;
>
> working with the Western Australian Iron Ore Industry Consultative Council to promote the region's improved industrial relations record both domestically and overseas;
>
> working with existing Government agencies to ensure that Pilbara residents are not disadvantaged in terms of provision of services; and
>
> developing strategies with the Public Service Commission to provide for greater regional autonomy for Pilbara-based Government agencies.

The Pilbara Development Commission has been set up on an interim basis as a separate department in order that work can begin on many of the tasks just listed. However, it is preferable that the commission become a statutory authority with its own board and advisory committees so that it can be responsive to local needs.

Clause 5 of the Bill provides for a small board; six members, plus the director, ex-officio. A chairman and deputy chairman will be selected from the board. Nominations have been called for board members through the local and State Press and the successful applicants will be selected shortly, based on merit. The board will be the governing body of the commission to exercise the powers and perform the functions of the commission. A director will be appointed under the Public Service Act to administer the day to day operations of the commission and be answerable to the board.

Under schedule 2 of the Bill, the board of the commission will have the power to appoint advisory committees on specific areas; for example, tourism, transport and social development. This arrangement is more flexible and effective than having just one regional advisory committee that has to cope with a range of topics and issues. These committees may have particular projects to complete or may become standing committees for the life of the commission. For example, one such advisory committee will be the Pilbara land use planning group whose tasks will include -

> Completing a land use strategy for the Pilbara region, focusing on the central Pilbara where a new generation of iron ore mines will be located; and
>
> determining specific infrastructure and land requirements for industrial sites in the Pilbara in accordance with the commitment given in WA Advantage for decentralised industrial areas in the State.

Clause 24 of the Bill is a five year sunset clause, reflecting one of the recommendations of the Pilbara 21 report, because the commission has a well-defined series of tasks to perform. At the end of four years of its life, as reflected in clause 23, there will be a review of the commission's operations, probably associated with an update of Pilbara 21, in which the need for a similar body to replace it will be examined.

In summary, although the Bill is structured similarly to the legislation for other regional development authorities, it has important differences reflecting the defined tasks to be undertaken by the commission as a result of the Pilbara 21 report. The five year sunset clause will enable the board of the commission not only to plan its program with confidence, but also with the knowledge that a job has to be done within a set time frame.

In many ways, the Pilbara Development Commission and, indeed, the Pilbara 21 report may provide a model for other regions in this State as part of a coordinated approach to regional development. At the end of the commission's life, it will be able to list clearly its achievements and will be judged accordingly, particularly in providing the basis for a new phase in the economic and social development of the Pilbara region.

Finally, I would like to acknowledge the tremendous contribution made by both Larry Graham and the late Pam Buchanan to the Pilbara 21 study. Their energy, enthusiasm and vision helped to bring the Pilbara 21 study to fruition and consequently this legislation to establish the Pilbara Development Commission. I commend the Bill to the House.

Debate adjourned, on motion by Hon N.F. Moore.

CONSENT TO MINING LEASE 74/8, A CLASS RESERVE 31751 AND MINING LEASE 70/649, A CLASS RESERVE 39885

Message from the Assembly received and read requesting concurrence in the following resolution -

> That this House consent to the granting of -
>
> (a) Mining Lease 74/8 on land situated at Munglinup in the Shire of Esperance on 'A' Class Park Reserve 31751; and
>
> (b) Mining Lease 70/649 on land situated at Baldivis in the South West Mineral Field on 'A' Class Cemetery Reserve 39885,

pursuant to Section 24(4) of the Mining Act 1978 and subject to the conditions detailed in the attached schedules.

MORLEY SHOPPING CENTRE REDEVELOPMENT AGREEMENT BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.37 am]: I move -

That the Bill be now read a second time.

The purpose of the Bill is to ratify an agreement between the State, Morley Shopping Centre Pty Limited and the Colonial Mutual Life Assurance Society Limited. The agreement will enable the joint venture partners to undertake a major redevelopment of the Morley shopping centre. The redeveloped centre will be approximately 60 000 square metres and will be larger than any other centre in Western Australia. It will include the following -

Myer store	18 000 square metres
Specialty shops	15 000 square metres
Cinema complex	4 000 square metres
Coles supermarket	3 500 square metres

These will be integrated with the existing Target, Woolworths and K-Mart stores. The joint venturers estimate that the construction cost for the project will be $109 million, broken down as follows: Building works, $70 million; consultants' fees, $7 million; lessees' works - Myer, Coles and cinemas, $19 million; and, specialty shop fit-outs, $13 million. It is anticipated that more than 2 500 long term and short term jobs will be created as a result of the redevelopment. Under the terms of the agreement, the joint venturers are obligated to use all reasonable endeavours to ensure that as many of the work force as possible are locally recruited.

During the 20 month construction phase labour projections indicate that an average of 400 persons will be employed. Also, 540 short term jobs will be involved in specialty tenant fit-outs and 100 in the Coles and cinema complex, and 45 consultants will be engaged. The estimated salary cost of these labour projects is $41 million. In addition, through the multiplier effect approximately 400 off-site jobs are likely to be created. Assuming that 50 per cent of the $41 million salary cost is attributed to contract labour, it is estimated that the remaining salary payments should attract $1.2 million in payroll tax. In summary, it is estimated that 1 485 jobs during construction and 1 060 jobs following project completion will be created. The joint venturers also estimate that 565 full time, 135 part time and 360 casual jobs will be created with a total annual salary of $24 million as a result of the redevelopment. Although 50 per cent of this salary figure represents specialty shop salaries, it is estimated that the balance will still attract ongoing payroll tax revenue of $720 000.

Given the magnitude of the project and benefits generated to the State, Coles Myer Ltd and Colonial Mutual are seeking assistance measures from the State Government through the Department of State Development, the Western Australian Water Authority and the Department of Land Administration. Concessions are also being sought from the Bayswater City Council. These assistance measures and concessions are identified in clauses 7 to 9 and 11 to 14 of the agreement. Details are as follows:

Clause 7 provides that a 99 year lease of the Russell Street reserve - previously vested in the City of Bayswater - will be granted by the State to the joint venturers upon completion of the project, or sooner if the Minister considers it appropriate. This clause also provides a right or option on the part of the joint venturers to acquire freehold title to the reserve. Clause 8 provides for the sale of the Johnsmith Road reserve to the joint venturers for $200 000. The joint venturers own the adjoining land and are seeking to consolidate their holding by purchasing the road reserve. Given the reserve's small size and building setback requirements, it has limited development potential for other parties. Clause 9 allows for the

Water Authority to grant to the joint venturers an easement or an option to purchase and a licence to enter its land. This land is the water compensation basin located roughly in the centre of the shopping centre redevelopment.

Clause 11 refers to the provision of a Water Authority rate concession of $500 000 for a period of 20 years, and the methodology for calculating future water rates applicable to the project. The Water Authority can expect an annual net rate increase of $1 million once the redevelopment is completed, based on a gross rental value of $22 million. Clause 12 refers to the City of Bayswater establishing a maximum base rate of $700 000 for the redeveloped shopping centre and the methodology for calculating future council rates applicable to the project over a 20 year period. The City of Bayswater estimates an annual net rate increase of $500 000 once the redevelopment is completed. Clause 13 requires the State to reimburse the joint venturers' stamp duty costs payable on land transfers and other transactions associated with the shopping centre redevelopment. The level of reimbursement is limited to $1.5 million.

I now turn to other specific provisions of the agreement scheduled to the Bill before this House. Clauses 1, 2 and 3 are the standard and mechanical clauses normally contained within State agreements. Clause 4 requires the joint venturers to notify the Minister by 30 April 1993 whether they will proceed with the redevelopment, and the program for commencement and completion if they decide to proceed. This clause also makes reference to when the agreement terminates.

Clause 5 provides that the redevelopment will be subject to statutory requirements and applicable laws. It also addresses redevelopment information requirements for the Minister, site entry and the joint venturers' licence to enter the project site Crown land. Clause 10 requires that the joint venturers pay for any surveys of the project site. Clause 14 deems that the Land Act be modified to enable a licence to be granted to enter Crown lands, the Minister for Lands to grant a lease under section 117, and the Governor to issue a Crown grant and, if exercised, the right or option to the Crown grant.

Clause 15 is a standard agreement clause which addresses the use of local labour, services and materials. It requires the joint venturers, except in those cases where it can demonstrate the impracticability of doing so, to use labour available in Western Australia. The joint venturers are also required to give proper consideration and, where possible, preference to Western Australian supplies, manufacturers and contractors. Clause 16 requires the joint venturers to obtain the Minister's approval if they wish to assign, sublet or dispose of their rights to another party before the completion date of the project.

Generally, the remaining clauses are similar to those of other State agreements and they do not require any additional comment. I commend the Bill to the House.

Debate adjourned, on motion by Hon Derrick Tomlinson.

PAY-ROLL TAX AMENDMENT BILL (No 3)

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.45 am]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to reduce the impact of payroll tax on employers by extending the threshold levels to which the tax rates apply by approximately seven per cent, as was recently announced by the Government as part of a $19 million package of concessions. A complementary increase in the payroll tax exemption threshold level is contained in the Pay-Roll Tax Assessment Amendment Bill. These concessions, which are primarily targeted at small to medium sized businesses, form one of many Government initiatives designed to encourage employment growth and stimulate the economy. The increase in threshold levels is in addition to a 10 per cent increase provided earlier this year, and will reduce the payroll tax liability for approximately one half of all payroll taxpayers.

This Bill proposes that the highest annual payroll level at which the 3.95 per cent tax rate will apply is to increase from $1.4 million to $1.5 million. The level at which the 4.95 per cent rate will apply will increase from $2 333 333 to $2.5 million. The annual payroll tax level at which the maximum rate of six per cent comes into effect will also increase from its current level of $2 916 667 to $3.125 million.

As mentioned earlier, almost 50 per cent of employers liable for payroll tax will benefit from this initiative. It will provide a benefit of up to $8 500 for an individual employer and will result in an estimated cost to revenue of $2 million for the balance of the 1992-93 financial year and $4 million in a full year. The extension of the threshold levels will operate from 1 December 1992. The Government has also announced its commitment to index payroll tax threshold levels over the next two years in line with movements in average weekly earnings. This will prevent employers moving into higher tax brackets due to wage increases. I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

PAY-ROLL TAX ASSESSMENT AMENDMENT BILL (No 2)

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.47 am]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to reduce the impact of payroll tax on employers by increasing the payroll tax exemption threshold level by approximately seven per cent, as part of a $19 million package of payroll tax concessions recently announced by Government. Complementary increases to the payroll tax threshold levels to which the tax rates apply are contained in the Pay-Roll Tax Amendment Bill.

This Bill provides for the annual payroll tax exemption level to be increased by $25 000 from its current level of $350 000 to $375 000. It is estimated that approximately 180 employers who would otherwise have had a payroll tax liability will now be exempt as a result of this increase. The weekly wage level at which point an employer is liable to register will also increase from $6 731 to $7 212. These measures will operate from 1 December 1992. The Government's recently announced commitment to index the exemption threshold level over the next two years, in line with increases in average weekly earnings, will prevent employers from becoming liable for payroll tax due to wage increases. I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

APPROPRIATION (GENERAL LOAN AND CAPITAL WORKS FUND) BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.50 am]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to appropriate sums from the General Loan and Capital Works Fund to finance items of capital expenditure. The capital works expenditure program proposed for this year amounts to $1 512 199 000. Of this amount, $472 million is to be appropriated by this Bill from the General Loan and Capital Works Fund. The works program of $1 512.2 million compares with actual expenditure of $1 145.6 million last year which included $102.8 million transferred to the Consolidated Revenue Fund for redundancy payments.

The Premier and Treasurer referred to the more significant matters of interest in the capital works program in the Budget speech. The program will stimulate economic activity by generating work for the private sector, especially the home building industry, as well as providing the infrastructure necessary to facilitate growth.

Financial details are contained in the Estimates and further descriptive information is provided in the document "Supplement to the Capital Works Estimates" which was tabled in the Legislative Council on 1 September.

The main purpose of the Bill which is to appropriate, from the General Loan and Capital Works Fund, the sums required for the works and services as detailed in the General Loan and Capital Works Fund Estimates of Expenditure.

An amount of $472 941 000 is sought from the General Loan and Capital Works Fund as part of the total financing arrangements required for the Government's planned works program. The amount to be provided from the General Loan and Capital Works Fund, which is subject to appropriation in this Bill, is clearly identified in bold type on pages 6 and 7 of the Estimates.

The Supply Act 1992 has already granted supply of $200 million and the Bill now under consideration seeks further supply of $272 941 000. The total of these two sums, namely $472 941 000 is to be appropriated for the purposes and services expressed in schedule 1 of the Bill.

As well as authorising the provision of funds for the present financial year, this measure also seeks ratification for amounts spent during 1991-92 in excess of the estimates for that year. Details of these amounts are provided in schedule 2 of the Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

STOCK (BRANDS AND MOVEMENT) AMENDMENT BILL

Second Reading

Debate resumed from 21 October.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [3.54 am]: I am advised that the Government supports this Bill in principle and in practice.

HON W.N. STRETCH (South West) [3.55 am]: I thank the Government for its indication of support for this Bill. I indicate that the amendments to the Bill were drafted by the Government advisers and I assume they will be equally agreeable to the Government.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon W.N. Stretch in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 30 amended -

Hon W.N. STRETCH: I move -

> Page 2, line 7 - To insert after the word "run" the words "for the purpose of sale".
>
> Page 2, line 8 - To delete the words "it appears" and substitute the words "prescribed details of identification appear".

Amendments put and passed.

Clause, as amended, put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon W.N. Stretch, and returned to the Assembly with amendments.

ADJOURNMENT OF THE HOUSE - SPECIAL

On motion by Hon J.M. Berinson (Leader of the House), resolved -

That the House at its rising adjourn until 10.30 am today (Thursday).

House adjourned at 3.58 am (Thursday)

QUESTIONS ON NOTICE

SCHIZOPHRENIA FELLOWSHIP OF WESTERN AUSTRALIA INC - CLUBHOUSE APPLICATION

830. Hon P.G. PENDAL to the Minister for Education representing the Minister for Health:

(1) Is the Minister aware of the Schizophrenia Fellowship's interest in establishing a clubroom/activities centre for people with the schizophrenic condition?

(2) If so, has the fellowship applied for land/funding assistance from the Government for the establishment of such a centre?

(3) With what result?

(4) If any previous application from the fellowship has received a negative response from the Government, what other avenues of assistance could be pursued by them?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Yes.

(2) Yes. The fellowship has applied to the Department of Land Administration for land in Shenton Park and to the Health Department of WA for funding.

(3) The Department of Land Administration has completed survey action and is awaiting further advice from the fellowship before tenure of land can be arranged. The Health Department of WA has included provisional recurrent funding for the fellowship subject to the construction of the fellowship's clubhouse.

(4) Not applicable.

GLUE - NOXIOUS SUBSTANCES, SALE RESTRICTIONS

832. Hon P.G. PENDAL to the Minister for Education representing the Minister for Health:

With reference to the sale of glue substances which can be termed noxious -

(1) As a result of joint investigations by the State committee on solvent abuse and the Western Australian Alcohol and Drug Authority, have further restrictions on the sale of these substances been given consideration?

(2) If so, with what outcome?

(3) Is any legislative action likely to result from the committee and authority's investigations?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Yes. The State committee on solvent abuse has considered a range of options relating to legislation and other measures that will impact upon the problem of glue sniffing in Western Australia.

(2) A forum for discussion of the recommendations of the report of usage patterns of volatile substance users in Perth was opened by the previous Minister for Health on 9 November 1992. Feedback from key service providers who attended this forum is to be considered by the new Minister for Health.

(3) Until the consultation process is complete, all options for action in response to glue sniffing will be kept open.

HOSPITALS - BROOME DISTRICT
Industrial Laundry, Private Firm Takeover Proposal

834. Hon P.H. LOCKYER to the Minister for Education representing the Minister for Health:

(1) Is it correct that a proposition was put to the Health Department proposing that a private firm of industrial laundries in Broome could take over the industrial laundry arrangement of Broome District Hospital at an approximate saving of $50 000?

(2) Has this proposal been accepted?

(3) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Yes

(2)-(3)

No. Following negotiations with the hotel services staff who strongly opposed the hospital contracting out of laundry services, internal productivity improvements have been implemented which have achieved savings in excess of $32 000. This approach, in addition to achieving the saving mentioned above, has also maintained the prospect of further considerable productivity gains being achieved through the hospital workers career structure consultative process for which the Broome Hospital is a pilot site.

INKPEN ESTATE - BLOCK No 29014 (FORMER RESERVE No 30364)
Transfer to Conservation and Land Management Department

932. Hon BARRY HOUSE to the Minister for Education representing the Minister for Lands:

(1) Is it intended to hand over a former reserve (No 30364, now block No 29014) in the Inkpen Estate to the Department of Conservation and Land Management?

(2) If so, when will this take place?

Hon KAY HALLAHAN replied:

The Minister for Lands has provided the following reply -

(1) Yes.

(2) Discussions are continuing with the Department of Conservation and Land Management with a view to transferring the land as soon as possible on agreed terms.

HEALTH DEPARTMENT OF WESTERN AUSTRALIA - PEST CONTROL OPERATORS AND COMPANIES, PROSECUTIONS
Approvals for Cyclodiene Insecticides in Established Buildings

954. Hon REG DAVIES to the Minister for Education representing the Minister for Health:

(1) Will the Minister provide the following details for the period 30 June 1991 to November 1992 -

(a) all the pest control operators successfully prosecuted by the Health Department of Western Australia under the Health (Pesticides) Regulations 1956;

(b) all the pest control companies successfully prosecuted by the Health Department of Western Australia under the Health (Pesticides) Regulations 1956;

(c) all the offences for which pest control companies and pest control operators were successfully prosecuted by the Health Department of

Western Australia under the Health (Pesticides) Regulations 1956 including details of the nature of the offence; and

(d) the names of the pest control companies which employed or contracted the successfully prosecuted pest control operators at the time the said breach of the Health (Pesticides) Regulations 1956 occurred?

(2) For the period 7 August 1991 to 1 November 1992, how many approvals has the Health Department given for applications of cyclodiene insecticides in established buildings?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) (a) (i) Vaughan Leonard
(ii) George Callaghan
(iii) Francis James Treasure
(iv) Victor Papadopoulos
(v) Chris Christidis
(vi) Andrew Buchholz
(vii) Ashley Dawson
(viii) Vaughan Leonard

(b) Economic Pest Control
Stewarts Pest Control

(c) V. Leonard - Boomerang Pest Control - unauthorised use of an organochlorine chemical.

G. Callaghan - Georges Pest Control -

(i) failed to fix a notice of treatment to the meterbox detailing a termiticide treatment;

(ii) used a pesticide otherwise than in accordance with a direction shown on the label; and

(iii) contaminated the floor of a building with an organochlorine.

F. Treasure - Aaron Lee Pest Control - unauthorised use of an organochlorine chemical.

V. Papadopoulos - Olympic Pest Control - used a pesticide otherwise than in accordance with a direction shown on the label.

C. Christidis - Terminex Pest Control -

(i) used a chemical he was not authorised on his pesticides licence to use; and

(ii) failed to fix a notice of treatment to the meterbox detailing a termiticide treatment.

A. Buchholz - Economic Pest Control -

(i) used pesticides for gain or reward when he was not a licence holder - two charges; and

(ii) failed to fix a notice of treatment to the meterbox detailing a termiticide treatment.

A Dawson - Armadale Pest Control - use of a chemical he was not authorised on his pesticides licence to use.

V. Leonard - Stewarts Pest Control - use of a fumigant when he was not a fumigation licence holder.

Economic Pest Control - Failed to display its firm name and other details on a pest control vehicle.

Stewarts Pest Control - Assisted an unlicensed person to use a fumigant - Mr Leonard.

(d) See above.

(2) 23.

HEALTH DEPARTMENT OF WESTERN AUSTRALIA - MESOTHELIOMA
Lifetime and Annual Rates

977. Hon MARK NEVILL to the Minister for Education representing the Minister for Health:

(1) What does the Health Department of Western Australia consider to be the lifetime rate of mesothelioma per million persons in the Australian population where there is no significant occupational or environmental exposure to asbestos?

(2) What does the Health Department of Western Australia consider to be the annual rate of mesotheliomas per million person per year?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) It is not clear what is meant by the term lifetime rate. If this question is referring to lifetime risk, then the risk (to age 80) of mesothelioma per million persons in people without exposure to asbestos has been estimated as either 104 in an unexposed Los Angeles population - Peto et al 1981 - or 158 - deKlerk et al unpublished.

(2) The annual rate of mesothelioma per million persons per year is highly dependent upon such factors as age, degree and type of exposure to asbestos, the geographical location of the population under consideration and other factors.

The above lifetime risks for an unexposed population equate to an average annual incidence over a population of 1-2 per million. In Western Australia in 1990 - the latest complete year - the rate of mesothelioma has been calculated to be 20.6 per million people.

HEALTH DEPARTMENT OF WESTERN AUSTRALIA - MESOTHELIOMA
Estimates Post 1992, "Inquiry into Asbestos Issues at Wittenoom"

978. Hon MARK NEVILL to the Minister for Education representing the Minister for Health:

What are the Health Department of Western Australia's estimates of occupational and environmental mesothelioma post 1992, in each of the groups in the table on page 25 of the report of the Inquiry into Asbestos Issues at Wittenoom?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

The report does not provide information as to how the figures in the table on page 25 have been derived. It is therefore difficult to derive comparable figures. The departmental figures for the mill and mine occupational group read as follows -

Total cases	352-527
Estimated population	6911
Pre-1979 cases	35
1979-1992 cases	102
Post-1992 cases	215-390

The figures for the other groups are not available.

HEALTH DEPARTMENT OF WESTERN AUSTRALIA - ASBESTOS, WITTENOOM
Government Buildings Demolition, Airborne Asbestos Fibres Increase

981. Hon MARK NEVILL to the Minister for Education representing the Minister for Health:

(1) Does the Health Department of Western Australia consider the demolition of Government buildings at Wittenoom will increase the level of airborne asbestos fibres in Wittenoom?

(2) What precautions will be taken to ensure residents are not exposed to airborne asbestos fibres generated by the proposed demolition?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) In the absence of adequate precautions being taken, a potential exists for levels to increase.

(2) Precautions in accordance with the occupational health, safety and welfare regulations 1988 and the health (asbestos) regulations 1992.

HEALTH DEPARTMENT OF WESTERN AUSTRALIA - SPONSORSHIP SCHEMES
Nursing Sisters Undertaking Re-registration Courses

997. Hon MARK NEVILL to the Minister for Education representing the Minister for Health:

(1) Does the Health Department of Western Australia sponsor nursing sisters to undertake re-registration courses?

(2) What assistance is available under the sponsorship schemes and from which section of the Health Department of Western Australia is this sponsorship available and which courses do they sponsor?

(3) What criteria are used to decide who gets sponsorship?

(4) Is sponsorship available by application or are offers made on a selective basis?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) The Health Department of Western Australia provides funds to Curtin University to provide re-registration courses for registered nurses.

(2) HDWA provides funds to Curtin University for the provision of the following courses -

Child health
Midwifery re-registration
Remote area nursing
Gerontology

HDWA provides funds to Royal Perth Hospital, Sir Charles Gairdner Hospital, Princess Margaret Hospital for Children, King Edward Memorial Hospital and Fremantle Hospital for the provision of post basic specialty courses -

Critical care course - SCGH
Cardiothoracic nursing - RPH
Operating room nursing and management - FH
Orthopaedic nursing - Royal Perth (Rehabilitation) Hospital
Paediatric Nursing - PMH
Neonatal intensive care - KEMH
Midwifery nursing - KEMH

HDWA provides nursing scholarships to individual registered nurses on an annual basis for the purposes of -

attending short courses
travelling to attend seminars etc
undertaking nursing research preceptorship
undertaking higher degrees in nursing.

Budgets for these sponsorships are held by the teaching hospitals for the post-basic courses and the HDWA holds the budgets for other courses. Other sponsorship has been available via a rural health skills education and training (RHSET) grant. However, this was from Curtin University, not the Health Department and was specifically aimed at midwifery re-registration only.

(3) Each nurse has selection criteria for applicants based on current employment status in the field of nursing to which the course applies; demand for registered nurses in the area (in the case of the child health course); location of the nurse; and ability to attend the course. Curtin courses provide for distance learning in some cases.

(4) Nurses apply for places in courses/scholarships and are interviewed either at regional or central level depending on which course. Re-registration candidates negotiate with Curtin University directly.

VICTIMS OF CRIME - MAXIMUM PAYMENT
Injustice Inquiry; Scheme Reconsideration

1008. Hon P.G. PENDAL to the Minister representing the Minister for Justice:

(1) What is the current maximum amount available to a victim of criminal attack?

(2) When was this limit last raised?

(3) Is payment dependent upon a person being convicted of causing the injuries?

(4) Will the Minister examine the apparent injustice that arises by which a victim of a vehicle smash can become eligible for a payment of many hundreds of thousands of dollars while a victim of crime is confined to a much lesser amount?

(5) Will the Minister reconsider the whole scheme in the light of the shocking injuries suffered by constituent, Peter Strauch, a former prison officer, who is now blind and on a blind pension because of a criminal attack?

Hon J.M. BERINSON replied:

The Minister for Justice has provided the following reply -

(1) $50 000 for offences committed from 1 July 1992.

(2) 1 July 1991.

(3) No. The assessor must be satisfied on the balance of probabilities that an alleged offence occurred and that injury or loss was suffered. A victim must have reported the alleged offence to the police.

(4) Comparisons cannot properly be drawn between the statutory scheme and the awards made in civil suits. However, the criminal injuries compensation has never been intended to equate to a likely civil award. It is intended to guarantee some recompense where it is unlikely that the offender has the means to pay a civil claim. Criminal injuries compensation schemes throughout Australia are all limited by a statutory maximum. In no jurisdiction is it the case that the State acts as the unlimited and comprehensive insurer of victims of crime. The Criminal Injuries Compensation Act was enacted in recognition of the fact that, in most cases, an offender does not have the means to pay proper compensation to the victim. In the year ending 31 December 1992 a total of approximately $3.6 million was awarded under the Act to victims of crime.

(5) Mr Strauch received the maximum $20 000 award payable under the Act at the time. The maximum has since been increased to $50 000.

While a general review of the Act is not proposed at this time, the maximum award is always under consideration. Police officers and other law enforcement officers and lay persons can on occasions apply for an ex gratia payment over and above a criminal injuries compensation award but this requires specific approval.

WATER AUTHORITY OF WESTERN AUSTRALIA - PACKSADDLE CHANNEL, IRRIGATION WATER CHARGES

1014. Hon GEORGE CASH to the Minister for Police representing the Minister for Water Resources:

(1) Is it correct that the cost of water pumped from the Packsaddle Channel is $525 per hectare?

(2) Are all users of this channel charged at the rate of $525 per hectare and if not why not?

(3) What is the cost of water pumped from the P1 channel and are all users charged at this rate?

Hon GRAHAM EDWARDS replied:

(1) No.

(2) No, because there is a tariff structure in place which is based on a range of factors including cost of serving locations, service level desired by customers, total area of holding and amount of area irrigated.

(3) The 1992-93 charges applicable to Packsaddle Plain properties that use irrigation water from the Packsaddle channel are -

Packsaddle Plain horticultural sub area 1 -

(i) $20.75 per hectare on total area with a minimum charge of $162.

(ii) $505 per irrigated hectare.

All other properties $39.70 her hectare on total area.

SCHOOLS - DENTAL SERVICES REVIEW
Capel Primary School

1015. Hon BARRY HOUSE to the Minister for Education representing the Minister for Health:

(1) Is the school dental service to the Capel Primary School, and other schools of like size, being reviewed?

(2) Will the access of smaller country schools to the mobile van be restricted?

(3) Is the Minister aware that any reduction in school dental services will impact heavily, and unfairly, on communities like Capel where the need has been clearly identified?

(4) Is the Minister further aware that the school at Capel has proposed that diet and dental health be the basis of their health priority for next year, and any withdrawal of services will result in students having to travel to Bunbury for treatment?

(5) If these dental health services are to be withdrawn next year, what are the reasons?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1)-(2)
Not to my knowledge.

(3)-(5)
Not applicable.

AIRPORTS - NEW AIRPORT
Waterloo Farms, Families Removal

1016. Hon P.G. PENDAL to the Minister representing the Minister for Planning:

(1) Is it correct that families occupying farms at Waterloo have been told they will be "moved out" to accommodate a new airport?

(2) Can such a move be initiated against their will?

Hon KAY HALLAHAN replied:

The Minister for Planning has provided the following reply -

(1) No. A new airport site was included in the draft Bunbury Wellington plan but no families have been told they will be moved out.

(2) No. The plan is only a draft for public comment and the alternative airport site would only be required when and if the current Bunbury airport was closed. If the airport siting is approved in the final plan, then compulsory acquisition could be contemplated prior to the Bunbury airport closure, but this is not expected for many years.

WATER AUTHORITY OF WESTERN AUSTRALIA - ADVERTISING COSTS
Albany Advertisement Cost

1026. Hon MURIEL PATTERSON to the Minister for Police representing the Minister for Water Resources:

(1) What was the cost of the recent advertisement in the *Sunday Times* supplement on Albany on 15 November 1992 advertising the Water Authority?

(2) How much is spent on advertising by the Water Authority during a 12 month period?

(3) What benefits to the taxpayer come from advertising of this type?

(4) What other types of advertising are done by the Water Authority?

Hon GRAHAM EDWARDS replied:

(1) The Water Authority advertisement in the *Sunday Times* supplement on Albany on 15 November 1992 was quoted at $590.

(2)-(3)

In round terms the Water Authority spends $500 000 per year in advertising. There are two reasons for the authority advertising. The first is to fulfil the necessities of every day business. For example, employment vacancies, supply contracts, tenders, disposals, road closures and planning and construction formalities. In 1991-92 about $200 000 was spent on advertising for these purposes. The second reason is to inform or involve the public in issues which affect the wider community. For example, water conservation, water resources management, water quality and, more basic, how and where to pay Water Authority accounts. In 1991-92 about $300 000 was spent on advertising for this purpose.

(4) The authority makes use of a variety of advertising media, including television, Press and radio.

McCAMEY'S IRON MINE - HYDROLOGY TESTING

1041. Hon N.F. MOORE to the Minister for Police representing the Minister for Water Resources:

(1) What hydrology testing has taken place to assist in the protection of the pastoral stations, Ethel Creek and Roy Hill, downstream of McCamey's iron mine?

(2) What hydrology testing has taken place to assist in the protection of aquifers and ground-water adjacent to McCamey's iron mine and to determine salt levels?

Hon GRAHAM EDWARDS replied:

(1) The Water Authority of Western Australia has gauging stations on the Fortescue River at Roy Hill - S708008 - and a Newman Bridge - S708011. These exist for general assessment of the State's water resources. Any hydrologic monitoring for the protection of pastoral leases should be referred to the Department of Agriculture or station owners.

(2) The groundwater resource at McCamey's mine is managed by -

(a) Groundwater licensing which controls the amount of water drawn for production purposes. The current licence was issued 11 March 1992 and conditions include monitoring and reporting of production well salinities, commencing in June 1993.

(b) Pollution control licensing which controls activities which have the potential to adversely affect groundwater quality. Conditions of this licence also control the use of saline water on the environment.

YANDICOOGINA MINE - WATERING POINTS GOING DRY, JUNA DOWNS STATION

1042. Hon N.F. MOORE to the Minister for Police representing the Minister for Water Resources:

(1) Will the Minister advise how many watering points have gone dry on Juna Downs Station, upstream from the Yandicoogina mine, since the commencement of the mine de-watering?

(2) Will the Minister advise the reasons for these watering points going dry?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture and Water Resources has provided the following response -

(1) I have not been able to establish that any watering points have gone dry on Juna Downs Station. It has been locally observed that water levels are generally lower in the East Pilbara, following very dry years.

(2) Not applicable.

TIPPERARY DEVELOPMENTS PTY LTD - PROPOSED ACTION AGAINST STATE

1051. Hon PETER FOSS to the Attorney General:

Is the Attorney General aware of any longer standing threat of action against the State or any of its instrumentalities by Tipperary Pty Ltd?

Hon J.M. BERINSON replied:

In late September 1990, Tipperary Developments Pty Ltd gave notice of a proposed action against the State pursuant to the Crown Suits Act.

QUESTIONS WITHOUT NOTICE

CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES DIVISION
No Breach of Criminal Code

707. Hon GEORGE CASH to the Minister for Corrective Services:

With regard to any inquiries conducted by the Minister for Corrective Services into the building services division of the Department of Corrective Services, can the Minister assure the House that a breach of the Criminal Code, particularly section 135, has not been committed by any public servant or Minister of the Crown?

Hon J.M. BERINSON replied:

I have received no such suggestion.

POLICE - 3 HOLLINGSWORTH AVENUE, KOONDOOLA, VISIT

708. Hon GEORGE CASH to the Minister for Police:

I refer to question without notice 696 of 1 December 1992 regarding a visit by police to 3 Hollingsworth Avenue, Koondoola on 25 November 1992 and ask -

(1) What was the nature of the operation referred to in the Minister's answer?

(2) What further contact have police had with any of the occupants since the visit on 25 November 1992?

(3) To which police station were the police officers who called at the house attached?

(4) What information was made available to the police to cause them to visit the premises?

Hon GRAHAM EDWARDS replied:

(1)-(4)

I thank the member for some notice of his question. However, I have been unable to get the detail and ask that that question go on notice.

EDUCATION, MINISTRY OF - STUDENTS EXCLUDED FROM SCHOOLS BY EXCISION PANELS

709. Hon N.F. MOORE to the Minister for Education:

Does the Ministry of Education have a policy concerning students who have been excluded from school by an exclusion panel? If so, what is the policy?

Hon KAY HALLAHAN replied:

The ministry certainly has a procedure for dealing with students and for setting up exclusion panels.

Hon N.F. Moore: What happens after they have been excluded by an exclusion panel?

Hon KAY HALLAHAN: A recommendation goes to the Minister. This Minister has required ministry officers to provide a recommendation about the future placement of the student involved, particularly where that student is under the compulsory school leaving age.

EDUCATION, MINISTRY OF - STUDENTS EXCLUDED FROM SCHOOLS BY EXCISION PANELS

710. Hon N.F. MOORE to the Minister for Education:

Why has the Minister persistently taken the view that students who are excluded from schools by exclusion panels should be made to go to another school, bearing in mind that the behaviour of students who are excluded is such that they are probably not welcome anywhere?

Hon KAY HALLAHAN replied:

I will have to check the *Hansard* record to see what I said, but I think the member misinterpreted me.

Hon N.F. Moore: I am talking about your record of persistently sending them to another school.

Hon KAY HALLAHAN: I have certainly asked for a plan for young persons to be excluded. Transferring them to another school is not the only option; there is a range of options.

Hon N.F. Moore: Why has the Minister persisted with sending them to another school?

Hon KAY HALLAHAN: I have not insisted that students be transferred to other schools. A number of other options are available to staff and they should use the one most appropriate for the individual student in the circumstances.

The PRESIDENT: Order! I talked earlier about members who disregard the direction from this Chair about interjections and who make a noise generally. About six private conversations are going on while the Minister is trying to answer a question. I think it is quite rude. I suggest that if members want to have a meeting, they go somewhere else and do not have it here.

CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES DIVISION
Report Tabling Date

711. Hon GEORGE CASH to the Minister for Corrective Services:

When will the Minister table the report on the building services division of the Department of Corrective Services?

Hon J.M. BERINSON replied:

Later this evening.

SMITH, SERGEANT DESMOND - DETHRIDGE CASE
Transcripts of Minister's Statement Tabling

712. Hon GEORGE CASH to the Minister for Police:

When will the Minister table, as previously promised, the transcript of his statement that he made concerning former Sergeant Des Smith and the Dethridge affair and related matters?

Hon GRAHAM EDWARDS replied:

I reiterate the answer I gave yesterday: As soon as they are available. I want to make sure I have them all because I would hate not that Hon George Cash might be disappointed, but that I left some of them out. I am endeavouring to have them by tomorrow, when I will table them. I also reiterate that I have written to the Ombudsman asking him to address the matter independently. He has written back and confirmed that he is prepared to do that. I think he will also receive a copy of my transcript. The Leader of the Opposition should not worry; it will come.

POLICE - WHITE DECOY CAR

713. Hon MAX EVANS to the Minister for Police:

Has the Minister made any inquiries to enable him to respond to my question of yesterday regarding the white decoy car?

Hon GRAHAM EDWARDS replied:

I have made inquiries, but I do not have an answer at this stage. Once again, I will endeavour to get an answer. The member must acknowledge that the amount of information he gave me initially did not help much.

HEPBURN HEIGHTS - SUBDIVISION DECISION EXPLANATION
Western Australian Tourism Commission 1991 Report Tabling

714. Hon GEORGE CASH to the Minister for Education representing the Minister for Planning:

(1) Can the Minister explain why the Government, in its decision to subdivide and develop the Hepburn Heights area, ignored the majority view of both the local and wider community which was opposed to the development?

(2) Will the Minister table the 1991 Western Australian Tourism Commission report on Hepburn Heights and its outcomes? If not, why not?

(3) Will the Minister table the Department of Planning and Urban Development's environmental audit of the north west metropolitan region conducted in 1991-92; specifically, the accompanying statements of the scientific consultants? If not, why not?

Hon KAY HALLAHAN replied:

(1)-(3)

I understand the response the member seeks could well arrive in the next 20 minutes. If it does, I will certainly make it available. If it does not, I suggest he put his question on notice.

ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF GOVERNMENT AND OTHER MATTERS - KIRKWOOD, BRUCE

Correspondence and Attatchments to Attorney General Tabling

715. Hon GEORGE CASH to the Attorney General:

Further to the request in question 647 of 24 November 1992 regarding the provision of correspondence to the Attorney General from the Royal Commission dated 21 September 1992, I ask -

(1) Will the Attorney General now make the correspondence and attachments available?

(2) In the event that the Attorney General has received legal advice that the correspondence or any attachment should not be provided, will he provide a copy of that legal advice? If not, why not?

Hon J.M. BERINSON replied:

I thank the Leader of the Opposition for some advance notice of this question. The answer is as follows -

(1) Yes.

(2)-(3)

Not applicable.

I seek leave to table a copy of the paper referred to.

Leave granted. [See paper No 660.]

LEGISLATION - SITTINGS OF THE HOUSE EXTENSION

All Bills on the Notice Paper Conclusion

716. Hon GEORGE CASH to the Leader of the House:

In recent days the Leader of the House, the Leader of the National Party and I have met to consider the proposed legislative program for this session. To date mutual agreement has been reached. Will the Leader of the House approach the Premier with the view to having the Legislative Council sit for such period that will enable the Legislative Council to debate to their conclusion all those matters which currently appear on the Notice Paper?

Hon J.M. BERINSON replied:

No. The sitting of this session was established long ago. I need only remind the House of the firmness with which the Leader of the Opposition has in the past approached the need to maintain that timetable. I believe we can satisfactorily deal with essential matters outstanding on the basis to which the Leader of the Opposition has referred; namely, my discussion with him and the Leader of the National Party. I see no need to extend the sitting beyond the extent which I signalled yesterday; that is, the agreed earlier starting time tomorrow and the very likely need - I would say certainty - to sit beyond the 6 o'clock limit tomorrow afternoon.

ADOPTION BILL - TO BE DEBATED UNTILL ITS CONCLUSION

717. Hon GEORGE CASH to the Leader of the House:

Will the Leader of the House ensure that he speaks to his ministerial colleagues in an attempt to prevent those ministerial colleagues spreading false statements which might properly be described as lies -

The PRESIDENT: Order! You cannot use that term.

Hon GEORGE CASH: I will say false statements, which are designed to indicate that the coalition in the upper House does not wish to debate various Bills on the Notice Paper. In particular, I refer to the Adoption Bill. I give the Leader of the House notice now that if the Adoption Bill is brought into this House, it will be debated until its conclusion, even if it takes four weeks.

Hon J.M. BERINSON replied:

It is always a pleasure for me to have discussions with my ministerial colleagues. I will continue to do so regularly. I think the Leader of the Opposition should not protest too much. It has been very clear in this session that the Opposition is not prepared to see a number of Bills go through. Members opposite have adopted a number of devices to do that. The colleague of the Leader of the Opposition, Hon Phillip Pendal, let the cat out of the bag only last week when he indicated that he was prepared to talk a Bill to death, literally. He was very explicit about that. The Opposition has made up its mind which matters it is prepared to deal with, and which matters it is not.

Hon George Cash: We consider all matters to be urgent and believe all matters should be dealt with.

Hon J.M. BERINSON: A common device has been the reference of various Bills to the Legislation Committee. I have nothing against the Legislation Committee. On many occasions I have indicated my respect for its work. However, taking the most recent instance, it is extraordinarily difficult to understand the need for the reference to the Legislation Committee of a measure as limited as the Local Government Amendment Bill (No 2). I am not complaining about these decisions of the Opposition; I am simply saying that it really does not help to engage in legislative fictions about what we are and are not prepared to do. I refer to the last comment of the Leader of the Opposition. I put it to you, Mr President, as the most experienced person in this House, that an offer to sit for four weeks on a single Bill is the clearest possible message that that Bill will not be finished.

COMMISSION ON GOVERNMENT BILL - BILLS CONSIDERATION, ROYAL COMMISSION RECOMMENDATION

718. Hon P.G. PENDAL to the Leader of the House:

Does the Leader of the House recall that the Royal Commission said that Parliament should give Bills its best consideration? Does he regard that this is being done in the case of the Commission on Government Bill where this House is expected to deal with all stages in the final 24 hours of this parliamentary sitting?

Hon J.M. BERINSON replied:

The Royal Commission said a number of things. Since Hon Phillip Pendal quoted it yesterday, I am prepared to accept this quote. The commission said that Parliament should give its best consideration to legislation. However, the commission also said that a Bill precisely in the nature of the Commission on Government Bill should be dealt with urgently.

Hon P.G. Pendal: Do you think the Royal Commission, like your Government, should rubber stamp it in this place?

Hon J.M. BERINSON: I do not believe so. I suggest that the commission's views are entitled to respect. I cannot understand why Hon Phillip Pendal is so keen on every possible occasion to attack the Royal Commission. Its views are entitled to respect. Hon Phillip Pendal seems to indicate that with his repeated reference to its view that Parliament should give legislation its best consideration. He stopped short at that point. He will not acknowledge that that is not the only thing the commission said. Among other things it has said that a commission precisely in line with that in the Commission on Government Bill should be dealt with as a matter of urgency. It is in keeping

with the Government's acceptance of the lead given by the commission that we propose to do our best to have it dealt with in this House.

STOCK (BRANDS AND MOVEMENT) AMENDMENT BILL - LEGISLATION REFUSAL

Letter to Royal Society for the Prevention of Cruelty to Animals

719. Hon W.N. STRETCH to the Leader of the House:

Will the Leader of the House write to the Royal Society for the Prevention of Cruelty to Animals and explain why he refuses to deal with the legislation which stops the owners of day old calves having to carve a piece of live flesh out of the calves' ears between the age of one and three days?

Hon J.M. BERINSON replied:

What Bill are we talking about?

Hon George Cash: The stock brands Bill.

Hon J.M. BERINSON: Three weeks ago in this House I made an offer to the Opposition: If it wished to prioritise private members' Bills, I would proceed on the basis, as was the case in the previous session, of undertaking to deal with one each Wednesday evening.

Hon George Cash: There is just not enough time, is there?

Hon J.M. BERINSON: Last Wednesday evening or the week before I had two nominated. So far as I can recall, we dealt with both. I have to stop and ask: Is this the stock -

Hon W.N. Stretch: You know damn well what it is.

Hon J.M. BERINSON: I do not damn well know what it is.

Hon W.N. Stretch: I have discussed it with you on six occasions.

Hon J.M. BERINSON: If the Opposition wishes to give that Bill priority for consideration as a private member's Bill, in accordance with my previous undertaking I will bring it on tonight.

STOCK (BRANDS AND MOVEMENT) AMENDMENT BILL - PRIORITY LEGISLATION

720. Hon W.N. STRETCH to the Leader of the House:

I remind the Leader of the House that the Stock (Brands and Movement) Amendment Bill is a departmental Bill which could not get up through Cabinet so it had to be introduced as a private member's Bill. In the event that the Bill is not handled on his priority will he write to the RSPCA and explain why he continues to allow pieces of living flesh, the size of a matchbox, to be cut out of the ear of calves which are one or a few days old?

Hon J.M. BERINSON replied:

It is an interesting way of putting the question, but I do not believe it is put seriously.

EDUCATION, MINISTRY OF - PRINCIPALS APPOINTED TO SCHOOLS

Degeneration of Schools Situation

721. Hon E.J. CHARLTON to the Minister for Education:

Will the Minister explain why the Ministry of Education will not do anything to take an appointment away from a principal of a school regardless of what that person does to disadvantage the children?

Several members interjected.

Hon E.J. CHARLTON: I have two examples - one of each gender.

Hon J.M. Berinson: We have a one in two chance of naming that person.

Hon E.J. CHARLTON: Does the Leader of the House want me to name that person?

Hon J.M. Berinson: I do not want you to.

Hon E.J. CHARLTON: Why will the Minister or the ministry allow a school to continue to degenerate into a hopeless situation because of the actions of the principal?

Hon KAY HALLAHAN replied:

Several members, including Hon Eric Charlton, have raised with me their concerns about the interaction between particular principals and school communities. If there is a fear of a school deteriorating to the extent the member suggests, it is important that it be discussed with me. Procedures are in place whereby the school community can approach the district superintendent. They can certainly write to the Chief Executive Officer of the Ministry of Education. The nature of the complaint will determine under which section of the Act it will be dealt with. In my experience the ministry has not been complacent in dealing with complaints of this nature. The member might like to ask his constituents to document the case, or he may like to do that, and refer it to the superintendent or to the CEO. He may also wish to discuss it with me.

Hon E.J. Charlton: I have done that.

Hon KAY HALLAHAN: Members should not hesitate to take action if they are concerned about the quality of teaching in the schools in their electorates. Quite frankly, I do not believe they would.

DETHRIDGE CASE - MINISTER FOR POLICE NOTIFIED BY COMMISSIONER OF POLICE

722. Hon D.J. WORDSWORTH to the Minister for Police:

I have asked the Minister previously when the Commissioner of Police first notified him of the Dethridge case. Will he advise whether the Commissioner of Police cannot recall the facts and will not inform him of them, or is it the Minister who does not want me to know the answer?

Hon Graham Edwards: I believe the question is already on notice.

Hon D.J. WORDSWORTH: No, it is not. I am asking the Minister whether the reason that he cannot provide me with the information is because the commissioner does not wish to give me the answer or because the Minister does not wish to give me the answer?

Hon GRAHAM EDWARDS replied:

It is not a matter of anybody not wishing to give an answer. The member asked a question which requires detail to be checked and I will damn well check it to make sure it is accurate before I provide it to him. I am sure that if I do not and there is an innocent error in it, he will want a Royal Commission which the Opposition then will disbelieve in the same way as it is treating the Royal Commission into Commercial Activities of Government and Other Matters.

SITTINGS OF THE HOUSE - STATISTICS
Bills Delayed by Opposition

723. Hon N.F. MOORE to the Leader of the House:

(1) Is the Leader of the House aware that this Parliament will have sat for only 18 weeks, or 54 days, this year in the event that it rises tomorrow?

(2) Which Bills does he consider are being deliberately delayed by the Opposition?

Hon J.M. BERINSON replied:

(1)-(2)

I was not aware of the statistics, but if Hon Norman Moore says he has counted them up -

Several members interjected.

The PRESIDENT: Order! The Leader is trying to answer the question.

Hon J.M. BERINSON: I was about to say that if Mr Moore has done the statistical calculation, then I am prepared to accept what he said as accurate. I do not think I need, for present purposes, to get into the detail of individual Bills.

Hon N.F. Moore: I think you should. You made an accusation that we are holding things up.

Hon J.M. BERINSON: It is widely recognised that it would be very superficial to look at the position in this House outside the context of what goes on in both of the Houses. Members opposite will know that often enough the clearest possible indication is given in the Legislative Assembly that there is no point continuing with the consideration of a Bill because when it comes here it will go nowhere.

OFFICIAL CORRUPTION COMMISSION - LETTER TO MR PRESIDENT

Appropriate Action Taken

724. Hon GEORGE CASH to the Leader of the House:

I refer to the letter from the Official Corruption Commission which Mr President read to the House at the commencement of today's business. Has the Leader of the House had time to consult on this matter and will he ensure that the appropriate motion is moved prior to the end of today's sitting?

Hon J.M. BERINSON replied:

Mr President, I found that the Premier was away from the House immediately after you presented that letter. I will again be looking for an opportunity to discuss it with her over the dinner adjournment and I expect the appropriate action to be taken tonight.

QUESTIONS - POSTPONED

Answers Arrangement

725. Hon GEORGE CASH to the Leader of the House:

Approximately 70 postponed questions remain on the Notice Paper, along with a number of other unanswered questions. In view of the fact that the Leader of the House made a decision that the House will finish tomorrow, what arrangements will he make to ensure that all the questions are answered without further delay?

Hon J.M. BERINSON replied:

Could I say with the merest hint of immodesty that so far as I am aware most of the questions directed to me have been answered.

Hon D.J. Wordsworth: Wrong.

Hon J.M. BERINSON: I said "most". So far as I am aware, there is only one question which remains outstanding and if there are more than that it is because the answers which have been sent from my office have not yet reached the Supplementary Notice Paper. I do not separate myself from my colleagues in that because all of them are doing a terrific job. However, the fact remains that I am unable to speak on their behalf. I am quite sure that all Ministers will share my interest in trying to minimise the number of questions left unanswered.

I point out to members that while a number do remain on the Notice Paper it must be noted that we are up to question 1121, and I understand that relates to questions asked in this session only. The long and short of it is that I recognise - I am sure that all Ministers do - the desirability of answering questions on notice as promptly as possible. Again, I am confident in saying that all best efforts will be made in that direction.

CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES DIVISION
Interim Report

726. Hon GEORGE CASH to the Minister for Services:

I am reluctant to ask a question of the Minister for Services as I do not wish to disturb him in his slumber.

Hon Tom Stephens: I was hoping the Leader of the Opposition would finally ask me a question.

Hon GEORGE CASH: Now that the Minister has returned to us -

(1) Has he seen a copy of the interim report on the operation of the building services division of the Department of Corrective Services and read and understood that report?

(2) Is he aware of the concern of the department over allegations of breaches of Acts which now come under his control?

Hon TOM STEPHENS replied:

(1)-(2)

I have not had an opportunity to study that report. I indicated to the member yesterday that I am looking forward to receiving that report and communicating with my colleagues in Cabinet as to any necessary recommendations that may flow from it.

CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES DIVISION
Interim Report

727. Hon GEORGE CASH to the Minister for Services:

Would it assist the Minister for Services, or speed up his process, if I were to provide him with a copy of that report?

Hon TOM STEPHENS replied:

I am aware of the background of this debate. I am also aware that the Leader of the Opposition is referring to a copy of a report he has which, as I understand it, is nothing more than a draft that was prepared at some time, and perhaps not even that. In that context I look forward to receiving the final report when it becomes available tonight.