



WESTERN AUSTRALIA

PARLIAMENTARY DEBATES

(HANSARD)

THIRTY-FOURTH PARLIAMENT
FOURTH SESSION
1996

LEGISLATIVE COUNCIL

Tuesday, 20 August 1996

Legislative Council

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THE DEPUTY PRESIDENT (Hon Barry House) took the Chair at 3.30 pm, and read prayers.

DEPUTY CLERK, COMMITTEES

THE DEPUTY PRESIDENT: I welcome back members. I introduce the Deputy Clerk, Committees, Mr Stuart Kay, who has now taken his place at the Table in the Chamber.

BILLS (6): ASSENT

Messages from the Governor received and read notifying assent to the following Bills -

1. Education Amendment Bill
2. Planning Legislation Amendment Bill
3. North West Gas Development (Woodside) Agreement Amendment Bill
4. Land Drainage (Validation) Bill
5. Security and Related Activities (Control) Bill
6. Health Amendment Bill

MOTION - URGENCY

Westrail Restructure Management

THE DEPUTY PRESIDENT (Hon Barry House): I have a letter addressed to the President dated 20 August as follows -

Dear Mr President

At today's sitting, it is my intention to move under SO 72 that the House at its rising adjourn until 9.00 am on 25 December 1996 for the purpose of discussing the humiliating treatment of long-serving staff and the gross waste of public money that is occurring because of Westrail's mismanagement of the restructure of its operations.

Yours sincerely

Hon Alannah MacTiernan

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

[At least four members rose in their places.]

HON A.J.G. MacTIERNAN (East Metropolitan) [3.39 pm]: I move -

That the House at its rising adjourn until 9.00 am on 25 December 1996.

Yesterday I was at the peaceful rally at the front of this Parliament and I was approached by a couple of Westrail employees whom I had not met previously. They commenced to tell me a quite extraordinary story. These people are full time employees of Westrail who have been consigned to duty in a shed in Forrestfield and who have been told to sit there indefinitely without any work. I thought it was an extraordinary situation, so I decided to check it

out. This morning I went to the yard at Forrestfield and discovered that everything that I had been told was true. In many respects the story was far worse than I had first imagined.

Hon John Halden: This is part of the More Jobs, Better Management policy.

Hon A.J.G. MacTIERNAN: That policy starts to look like a shabby concept, as does the Right Track program. We have many other criticisms of that program which no doubt during this session of Parliament we will have the opportunity to discuss. Today I want to address the situation faced by these Westrail employees.

On this cold, dark and wet morning I found 18 to 20 men standing around a 44 gallon drum in which a fire was blazing. It was freezing. These men were standing in a gigantic, barnlike structure which appeared to have no doors. It was certainly exceedingly cold -

Hon Tom Stephens: If the Minister had known you were going there, he would have barred you. That would be his solution.

Hon A.J.G. MacTIERNAN: I am sure he would have taken such evasive action.

Hon E.J. Charlton: I would have gone with you.

Hon A.J.G. MacTIERNAN: The Minister does not appear to have known about my visit until now. As I say, some 18 to 20 men were standing around shaking their hands in front of a 44 gallon drum, trying to keep warm and occupied. A number of those men have worked for Westrail for decades. One gentleman has been employed there for 38 years. However, these people now find themselves consigned to the scrap heap -

Hon B.K. Donaldson: Around a drum!

Hon A.J.G. MacTIERNAN: When the Right Track program was introduced the Minister said there would be no forced redundancies; that people would have a choice - that is, a coalition Government choice; he said that these people could choose voluntary redundancy or redeployment. These men have not chosen redundancy; they have opted for redeployment. What is supposed to be redeployment in fact turns out to be psychological warfare. One of the men had an even more extraordinary story to tell. In March this year the Kewdale plant and equipment depot was closed. Most of the workers from the depot who had not taken redundancy were sent to the Forrestfield locomotive depot. One was not. He was told to stay at Kewdale alone. He was the only one in his unit who remained at Forrestfield.

Hon B.K. Donaldson: As a caretaker!

Hon A.J.G. MacTIERNAN: No. His instructions were to sit in the canteen. He was not to do anything else. That was more than six months ago. In effect, this man was sentenced to solitary confinement in the canteen at the Kewdale plant and equipment depot. Not only has he been subjected to this ritual humiliation by this disgraceful act but also he has been paid a full wage. He wants to work; he wants to do something useful. He does not want to turn up every day and sit in the canteen alone, and take his pay - and neither do the taxpayers want him to do that. The taxpayers want him to have a decent opportunity of work. The correspondence received by this man relating to the conditions he was to endure was simple. It reads -

Reference is made to our previous discussions regarding your employment situation following the closure of the P & E Depot today.

As a consequence of the closure you will be surplus to requirements and be titled Wages Employee at your present classification located at the P & F Depot until further notice.

Further discussions will be held with yourself in regard to the options available to you.

I wish you well in the future.

The letter was dated 8 March. We are now well into August, and no discussions have been held. No contact has been made with this man by senior management to discuss the options that may be available to him. He has been put in the canteen and abandoned.

Hon B.K. Donaldson: Perhaps he is a caretaker.

Hon A.J.G. MacTIERNAN: I hope that the Minister can do better than that!

Many of the staff went to the locomotive depot at Forrestfield and joined the existing staff. Work was available at the Forrestfield locomotive depot until last Friday. The work previously undertaken at the locomotive depot has now been contracted out and taken over by yet again an Eastern States firm which will proceed to take money from the local economy. I refer here to Clyde Engineering.

The workers who have not been subject to solitary confinement but have had a period of respite at the Forrestfield depot ceased work on Friday. The men to whom I refer were annoyed that not one of the management came to farewell the men on Friday. These men have worked for Westrail for decades. Some started their working lives as apprentices with Westrail, and their careers are coming to an end. However, Westrail did not send down one manager to have a farewell beer with these men. Of course, that would not fit within the psychological warfare which is the obvious modus operandi here. These men are highly qualified tradesmen, such as fitters and turners, welders and boilermakers. Certainly all of them are at least semiskilled. Those to whom I spoke were at level 3 and above in the Westrail award structure. The longer I spent at the location, the more extraordinary the story became. It was extraordinary that about 20 skilled and semiskilled men were standing around a 44 gallon drum, but it was more extraordinary that not even any toilet paper was available; and there was no refrigerator and no stove -

Hon E.J. Charlton: It is called "bring your own".

Hon A.J.G. MacTIERNAN: That is right. It is an interesting response by the Minister. If I were the Minister I would be alarmed that this is going on within an organisation for which I was responsible; but no, the Minister is true to form. He simply resorts to asinine comments. It became even more extraordinary because from time to time there is work to be done. However, these men are not allowed to do it. I will give three examples of this that have occurred over the past three days. The plant and equipment depot we talked about needed cleaning up, and staff were required to do it. The supervisor suggested that the chap who was in solitary confinement and some of the men in the shed at Forrestfield could do the cleaning up. They were keen to do that; it would not have cost Westrail a cent. These men who were already being paid could simply go to the Kewdale depot and clean it up. They were happy to do it because they wanted something to do. Westrail management said that they were not to be used. What did Westrail do? It hired outside labour to clean up the Kewdale plant. These men had been sitting in the canteen and standing in the shed, but Westrail would not use them.

Hon John Halden: That fits with "more jobs, better management".

Hon A.J.G. MacTIERNAN: That is right - not more work, just more jobs. There was a need for a boilermaker in the structures division. That is just 1 kilometre down the road from the wagon depot in Forrestfield where the men were standing around a 44 gallon drum. Westrail had men who had worked for it as boilermakers and welders for over 20 years and who put their hands up to do the work. It would not have cost Westrail a cent. However, Westrail would not employ any of those men. Indeed - this is an interesting point - it went to its old mates, Track Force. Some members might know of Track Force: It is a firm that was set up by very close relatives of a senior staff member within Westrail.

Hon Tom Helm: Only by marriage!

Hon A.J.G. MacTIERNAN: Not from what the anonymous caller said to me. Westrail asked Track Force whether it could send a boilermaker-welder. It sent a semiqualfified boilermaker-welder because it did not want to use those who were already being paid \$517 a week for sitting around the 44 gallon drum, 1 km down the road.

Just this morning another incident occurred. Westrail needed someone to move a crane. The supervisor thought he would get one of the blokes from the shed to do it. He contacted Westrail management but was given strict instructions that those men were to do no work because Westrail would hire a temporary. A final quote I will cite is sworn evidence that went before the Industrial Relations Commission in the past couple of weeks. It would be instructive for members to listen to this. It refers to the gentleman in solitary confinement in the Kewdale canteen.

Hon P.R. Lightfoot: He's not standing around a 44 gallon drum, is he?

Hon A.J.G. MacTIERNAN: If the member listens to this, he will understand what is happening to that man. The transcript states -

Well, have you been told what's going to happen to you now?---I was told - - I was told by Murray Grant that on the 16th of this month I could go - - I'm going to the wagon shop where they've done up a

lunch-room there and that's where I'll be sitting, in there.

He has a promotion! He is moving from the canteen at Kewdale to the lunchroom in Forrestfield! The perplexed counsel then asked: "Have you had any special training for these activities from Westrail? . . . Well, sitting in a lunch-room?" The man replied, "No." He was at Kewdale and was yet to receive the promotion. He was asked of his time at Kewdale: "Is there anyone you can talk with out there?" The man replied -

There's a derailment crew, but they're normally engaged in activities so they're not there, and there's a storeman, which he stays, you know, in his own store, and that's it.

The transcript states further -

Have you tried to assist in any activities at all?--- Well, on the 17th May when I came back -

I think that is when he came back from holidays -

I started to do a few duties in the shop; that's when Murray Grant said, "Stop; I've been told to isolate you. You're not allowed to do any work, you're not allowed to drive any Westrail vehicles and you're not allowed to have a television in the lunch-room either".

This poor man, who has been driven to distraction by his sentence of solitary confinement, had the audacity to take in a television to try to entertain himself. He was not allowed to work - and he was not allowed to watch television either. He was asked why he believed he was receiving treatment like this and he said: "I believe it was probably because I was the union shop steward." The transcript states -

Do you have any other explanation for why others might be successful and you wouldn't?--No.

This is a sorry tale, and I am interested in the Minister's response

HON KIM CHANCE (Agricultural) [3.53 pm]: Frankly, I am amazed at the revelations we have heard from Hon Alannah MacTiernan today. I have heard rumours about this sort of thing, principally from locomotive drivers who, in their consideration of the options with which they were faced - redundancy, redeployment or retraining - had told me as long ago as two years that the question of redeployment was not an issue because when people were redeployed, they ended up in a shed in Forrestfield, sitting down with nothing to do. I feel extremely embarrassed to have to say now that at the time I probably dismissed that as being either an exaggeration or, at the very worst, a temporary arrangement that might have existed for a week or so. I am indebted to Hon Alannah MacTiernan for doing what I did not do and looking at the situation at Forrestfield for herself.

I heard the story about locomotive drivers two years ago. In the case of maintenance workers at least, this matter continues. It is a scandal. If one or two opposition members saw some humour in the absolute absurdity of the situation as described by Hon Alannah MacTiernan, I assure members opposite that what they found funny was the absurdity itself, because every one of the members on this side of the House considers this matter scandalous and a serious situation.

Hon Tom Helm: Are they all union people?

Hon KIM CHANCE: I do not know; I am sure Hon Alannah MacTiernan can tell us. I am reminded of a story that many members would have heard about a prospective farmer in the United States who wrote to the US secretary of agriculture asking how he could become a non-farmer; that is, a non-producer of specific commodities. At that stage farmers were being paid not to produce pigs or wheat, and almost anything else. His preference was to go into the not to produce pigs business because he had no experience at all with pigs and he felt that he would be better at not producing pigs than any other commodity. He wrote quite a lengthy letter. I will not go into it because it is marginally irrelevant - but only marginally because this is exactly the absurdity we are seeing here.

Westrail workers who have years of loyal and skilled experience in serving the public are going into the not maintaining the railway system business. It is just as absurd as the prospective farmer wanting to go into the not producing pigs business. It is just as absurd and just as serious because the outcomes for all of us are negative. For those who are unfortunate enough to be placed in that situation, it would be a crushing experience. Hon Alannah MacTiernan said that one member worked for 38 years for Westrail. They believed, justifiably, that they were contributing something to their employer and to this State by their labour and to be cast on the scrapheap in the inhuman way they have been is scandalous. People should not be treated like that.

Occasions inevitably arise when a work force is restructured and when some people will be unhappy and dissatisfied about the way they are treated. I hope that will always be a minority of the work force, the majority having been satisfied by the processes of redundancy, redeployment and retraining. When a minority of people cannot be catered for adequately within the scope of the three Rs - redundancy, redeployment and retraining - there must be some means available to an employer of the size of Westrail, given that it is part of the Western Australian Government in any case, to find something gainful for those people to do and to at least make them feel as though they are working human beings who do not deserve to be locked away in an empty shed somewhere at Forrestfield or in an empty canteen serving no purpose whatsoever.

This extremely serious matter should not exist. From my experience, limited though it may be, it is not a temporary situation. Given the time when I first had information on this matter, it seems to be a longstanding "solution". My concern is the nature of this so-called "solution" that has been applied here. Apart from the absurdity of the situation, it is a shocking waste of public money. It is also an incredibly sad story and one which I hope the Minister will take very personally; I hope he will try to do something about solving the problem within Westrail. Neither loyal employees with many years of service nor indeed anybody else deserves to be treated, not just as numbers, but as redundant and irrelevant numbers, which is exactly the situation we have here.

In respect of the second of the issues raised, which is the waste of public money, I had occasion last year to discuss with the then Minister for Education the matter of a country high school which was unable to provide a teacher for advanced calculus for three students who wanted to take it, because no money was available to adjust the ratio required to increase the teaching staff component by 0.2 of an FTE, which would have allowed that course to be taught. I understand the Minister's argument that if we did that for one school every other school in the State could come up with a similar proposition. Taken on its own, that might be a justifiable argument. However, when we are talking about the sheer waste of human resources that has been brought to light by Hon Alannah MacTiernan, then the whole lunacy of our use of public employees is brought into sharp focus. We cannot afford an extra 0.2 of an FTE so that country children can have an adequate education, but we can afford to waste dozens of qualified, skilled people on a futile exercise which does nothing to further their future, our future or that of the State of Western Australia.

I have only a very short time left, but I want to raise an issue that came to my attention last Saturday. It relates to a Westrail driver with over 49 years of employment history with Westrail. He will turn 65 in October this year. Because he has been diagnosed as having unstable angina he is unable any more to drive a locomotive or any other type of equipment. The driver is ready to leave his employment with Westrail with whom he has had a long and amicable association, but financially he is not quite able to leave. He sought a severance package in order to leave earlier. Ultimately his position, for different reasons, is exactly the same as that of those workers interviewed by Hon Alannah MacTiernan. He cannot do anything. There is no maintenance at Merredin any more. He is unable to steam clean the odd locomotive or anything like that. He sits and drinks coffee and reads the newspaper all day and then goes back home. He will do that until he is 65. The tragedy is that because Westrail will not offer him a severance payment he will have to go beyond the age of 65 years, because he does not have to retire when he is 65. He could sit drinking coffee and reading newspapers in that locomotive shed until he is 75, if he wanted to. The taxpayer in those circumstances would pay \$250 000 because Westrail will not offer him a modest severance package. He was offered a severance package informally but a formal offer has never been made.

HON SAM PIANTADOSI (North Metropolitan) [4.04 pm]: I share the sentiments expressed by Hon Alannah MacTiernan and Hon Kim Chance about what is occurring in Westrail. It is not a new phenomenon. Certainly it is one with which I am familiar. It occurred during the time of the previous Court Government. I must say, it occurred also during the period of the previous Labor Government.

Hon Tom Helm: I do not think so.

Hon SAM PIANTADOSI: It did occur. If we look back at the massive changes in Westrail that began under the Labor Government at the time when Mr Julian Grill was Minister, many people were placed in a similar position.

Hon A.J.G. MacTiernan: No.

Hon Tom Helm: No.

Hon SAM PIANTADOSI: The members make light of it, but it is so.

Hon A.J.G. MacTiernan: Give us the evidence.

Hon SAM PIANTADOSI: The evidence is there if only Hon Alannah MacTiernan will look for it. I could tell members of similar incidents that occurred in the then Water Authority. There is a problem and people are suffering. Scoring political points will not resolve the problem. Irrespective of our political parties, we must not fail to ensure that people are not playing with other people's lives. Both parties would be guilty of that offence.

Hon A.J.G. MacTiernan: I disagree with you.

Hon SAM PIANTADOSI: Hon Alannah MacTiernan may disagree all she likes. I have been there and done it, and I know. When the member starts paying a few more visits to entities other than Westrail, she might learn a bit more. I would have no reason whatsoever to raise the matter if it were not true. The members might not like it but they will have to cop on the chin that what they have talked about occurred under successive Governments. I agree with members that people should not be treated like factory fodder. There must be some dignity. I urge the Minister to look at this very closely while he is in charge to ensure that at least the practice that has occurred over a number of years is stopped. People should not be subjected any further to the treatment they are receiving at the moment. I urge the Minister to address that as soon as humanly possible. I noticed that a number of members were laughing earlier about a very serious matter that Hon Alannah MacTiernan was addressing in this Chamber. I certainly do not see it as a laughing matter. When I was with the water supply union I had coming to my office people who were faced with similar circumstances. As a member I have had people approach me when similar changes have occurred. I have made representations. I am happy to show the evidence to Hon Alannah MacTiernan. People will still continue to play with other people as if they were nothing. I urge the Minister not to remove the dignity of those people, especially those like the employee who has been there for 49 years of loyal service. Sometimes middle management tends to forget. They sometimes think that they are Westrail, the Water Corporation or some other entity, and so they make decisions and play with people as they see fit.

That practice should cease. The rights and dignity of all workers should be observed. Also, being in limbo for such time does nothing for the confidence of these people, and it will be difficult for them to find a job in private enterprise. After experiencing such a six months, I think even Hon Eric Charlton would find it difficult to become motivated again. After this injustice, it will be hard to go out in the marketplace to fight for jobs.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [4.11 pm]: I understand the time and that the Minister wants to make some comments, but he will get his chance. I reflect on what this little operation at Forrestfield is costing Western Australian taxpayers. We have 21 people earning approximately \$28 000 a year sitting around doing nothing, and the yearly bill for that in wages alone is approximately \$600 000. On top of that, one must add the 40 per cent on-costs associated with workers. It is a modest and reasonable estimate - and it could well be more - and this adds another \$240 000 to the cost.

Hon E.J. Charlton: Hon Alannah MacTiernan said they are doing nothing, so there are no on-costs.

Hon JOHN HALDEN: One must still pay leave loading and other on-costs. This results in a bill in excess of \$800 000 a year to have 21 people sitting around doing nothing, and this is only the 21 people of whom we know. I interjected a number of times during Hon Alannah MacTiernan's speech with the catchcry of members opposite during the last election campaign: "More jobs, better management." What a mockery! The Government pays three-quarters of a million dollars a year for people to do nothing!

I do not want to miss the opportunity to make reference to the Commissioner of Railways. I heard the commissioner commenting that Hon Alannah MacTiernan does not have a great deal of economic competence. However, we discover that this man presides over the employment of 21 people at a cost to Western Australians of three-quarters of a million dollars plus to do nothing! Before he makes any allegations about Hon Alannah MacTiernan's economic competence, he should have a long, hard look at himself and his organisation. Economically, this situation is absolute rubbish and should not be tolerated, and the Minister should intervene immediately to stop this most outrageous waste of taxpayers' funds.

Hon Tom Helm: The Minister might have done it!

Hon JOHN HALDEN: Hon Alannah MacTiernan referred to the supervisor of the 21 people. What is the supervisor supervising when 21 people stand around all day warming their hands around a 44 gallon drum? Members opposite wonder why we laugh at this situation, but it is totally absurd. We have a supervisor making sure people do not work! Also, I did not factor his wages into the equation. I wonder who supervises him. It is a nonsense.

I now refer to Mr Drabble and the organisation he presumably oversees. Have members ever heard of such industrial relations homicide in their lives as this situation? It is about killing people at work so they resign. They are so

destroyed and downtrodden that at the end of the day, in sheer boredom and monotony, they sign off and no longer take their wages. In that way, they are no longer a problem on the books of Westrail. Anyone overseeing that sort of policy should not be a chief executive officer of any organisation in this State. I have never heard of people treating other people so inhumanely and so vilely in my life. It is clear in comments I have heard that this situation has resulted from a direct policy decision. These people will not be allowed to work no matter how much it costs, no matter what they could do. Private contractors are even brought in to ensure that they will not work. Who could oversee something like that? Should anyone oversee an organisation which has that as its industrial relations policy? The answer is clearly no. Mr Drabble should be brought to account immediately for his financial incompetence, and his industrial relations policy, which are worse than those of the 1980s, the 1990s and probably the 1970s. I have never heard of such degradation of fellow Western Australians in my life as this outrage. It is all very well to say that people are surplus to requirements. They may well be in an economic sense, but they do not deserve to be degraded in the manner occurring at Forrestfield today. These people who have no job deserve basic amenities; that is, they deserve a fridge and toilet paper. It is not such a privilege to work in this State that employees must bring to work their own toilet paper to assist that bodily function. What organisation has this as its industrial relations policy? An enormously incompetent and inhumane one.

I await the Minister's response with some eagerness. I ask my colleagues to allow him the full 10 minutes to explain this exercise. In fact, we will be happy to give him an extension. Hon Alannah MacTiernan should be congratulated for bringing this matter to the House's attention. It is one of the most vile examples of the treatment of people in this State. It is also a gross waste of taxpayers' money. As I said, I consider the \$800 000 annual cost for these 21 people to do nothing while we pay contractors to perform work which these 21 people could carry out to be a total waste of money. The bill of this exercise is more likely in the vicinity of \$1m. That is the significant contribution by Mr Drabble, Westrail and the Government to the economy of Western Australia. I hope the Minister will take this matter seriously and that it will be investigated immediately, and that these men - I presume that they are all men - will be treated with some basic dignity. I hope Mr Drabble will be made accountable for this degradation.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [4.18 pm]: Firstly, I will investigate the accusation made today and I will report on the matter to the House. As I was not aware of the issue raised by the member prior to her speaking in Parliament today, I can do no more than give that commitment. Obviously, I need to advise the Parliament of a few of the facts relating to the operation of Westrail. If one listened to Hon Alannah MacTiernan, Hon Kim Chance and Hon John Halden, one would believe that everything at Westrail is doom and gloom, that the place is falling apart and that nothing is happening. The truth is quite the contrary.

Hon Tom Helm interjected.

Hon E.J. CHARLTON: I sat and listened to members opposite and did not laugh at any of the matters raised.

Hon Tom Helm: You should not laugh.

Hon E.J. CHARLTON: The fact is that this year Westrail moved more freight and people than ever. It is not curtailing its operation, but expanding it. Westrail has not been left to hang out to dry as occurred during the previous Government, apart from the time that Hon Julian Grill was Minister for Transport. Both sides of politics tell me that Minister Grill was the only Labor Minister for Transport in recent times to do something positive for Westrail and other transport agencies. Other Ministers left Westrail to rot on the vine. When this Government came to office, I wanted to make Westrail a smooth, lean and mean machine that moved products around Western Australia and maximised the operation of the rail system.

Hon A.J.G. MacTiernan: You managed the mean part.

Hon E.J. CHARLTON: Westrail has dramatically reduced the size of its work force from 4 700 to less than 2 000 employees as a result of the modernisation process. Of course, a number of other people work for Westrail under contract. The Opposition has spoken of 20 people sitting around doing nothing and having no future. However, when I visited the Midland Workshops it had 800 employees with no direction, coordination or anything else. They had no involvement in maintenance of the rolling stock. The rolling stock was dying on its feet. Currently 24 locomotives are being built in Western Australia by Western Australians. The Government will launch rail operations in South East Asia as a result of that. It has competition in that area because two companies are involved. It will also modernise the rolling stock and spend \$250m on improvements to the railway line infrastructure around the State. Hon Kim Chance and I have seen certain sections of the line neglected to the point that trains are travelling over them at a speed of only 20 kilometres an hour because it would not be safe to travel any faster. The Government will spend \$80m on the grain network, and in that area Westrail is continually reducing its costs which are now 13.5 per cent cheaper in real terms than they were when this Government came to office. Decisions must be made, but Hon

Alannah MacTiernan is not interested in economic feasibility or the future of Westrail as a transport operator. She is interested only in looking after the unions and maintaining the number of union members. It does not matter whether they are employed in any useful occupation; as long as there is a union stronghold with union domination and union thugs running around, the member does not care about the employees of Westrail. She is not interested in those 20 people; she is just concerned about a reduction in the number of union members. The Government stated that Westrail employees would be offered redundancy if no meaningful work was available for them. If they chose not to accept redundancy, they would be offered retraining. If they did not want retraining, they would not be sacked. Members opposite would like the Government to sack these people because they could parade around the State talking about how many people had been sacked. However, this Government has not sacked one employee of Westrail. The greatest problem I have is the queue of people who want a redundancy package. A number of people who have applied for redundancy have been refused because they are needed to rebuild the organisation to make it the best rail system not only in Australia but throughout the world. I am very proud of Westrail and I make that clear everywhere I go. Recently I met a person at the airport wearing a Westrail pullover who asked me how the organisation was going. I said it was doing magnificently and that it was a credit to this State. I said it was an example to other businesses operating in this State.

The 20 employees referred to, and others in a similar situation with no meaningful work, have not participated in retraining and do not want to get another job. They have obviously refused redundancy because if they have no future in the organisation, that option would be available to them. I shall be most interested if I hear they have not been offered redundancy. I met a young man the other day who wanted a redundancy package but he is one of the future leaders of Westrail and he is needed. He wanted to leave Westrail to work in the north of the State for a couple of years to increase his income so that he could educate his family. I have supported Westrail's move to increase salaries, and the increases in that organisation have far exceeded those in the private sector. I have supported the move to provide meaningful jobs and to promote the future of Westrail as an organisation. Those whose jobs no longer exist have been offered redundancy packages. Some have accepted the redundancy packages and others have left because they had the opportunity of taking positions elsewhere. The Government has involved external agencies in providing additional retraining, and many people have taken advantage of that. We have heard nothing of that today. Unfortunately, I do not have time to give details of all the success stories. Financial planning, seminars and advice have been made available to employees, many of whom started their own businesses once they left Westrail. I have opened some of those businesses, which are an outstanding success. Many people have said that although they hated the Government at the time they were made redundant, it gave them an opportunity to work for themselves rather than for someone else.

The modernisation of Westrail will result in a reduction of \$70m a year in operating costs. That is a lot of money. The number of locomotives in operation will decrease from 117 to 67, and two drivers will be operating each train. Previously one driver and his assistant operated a train. In this scenario, there was a shortage of drivers and it was necessary to train people to fill the gap as a consequence of the new requirement. I have a good working relationship with the locomotive union people. I indicated Westrail would not need as many employees but it would need people with the capacity to do the job using new technology and better equipment than was previously in operation. The union understood the challenges involved. This is not a matter of creating 10 000 jobs in Westrail, which was the number of employees there when Julian Grill took office. I understand that number was reduced to between 5 000 and 6 000 by the time he left. As Hon Sam Piantadosi said, this is not the first time that the number of Westrail employees has been reduced. If in some cases the matter has not been handled properly, they will be dealt with in an open manner. I have no problem with that. I have addressed assemblies of hundreds of people on this issue, and I have also talked to employees on a one to one basis. I have the highest regard for my fellow man, and I can guarantee that neither Ross Drabble nor any other member of the task force dealing with these issues wishes to treat anyone less than fairly.

We must get one thing straight; Westrail is a government organisation of which I am extremely proud. It has an ongoing commitment to reduce the charges to those who use the rail system. I have recently visited Europe where only 5 per cent of freight is moved by rail. Rail freight in Western Australia far exceeds that figure. Instead of closing railway lines, this Government is looking for new opportunities to expand the rail system. Five new rail car sets are on order, for which tenders were called a week or so ago, and \$3m has been spent on refurbishment of the *Australind* and the *Prospector*. The Government wants to increase the whole volume of Westrail's operation.

HON A.J.G. MacTIERNAN (East Metropolitan) [4.28 pm]: The Opposition is very pleased that coalition members have finally become born again supporters of the rail system. One could be excused for not being aware from the Minister's address that the Liberal Government pulled up the railway line to Meekatharra, and closed the railway service between Perth and Fremantle. When the Labor Government came to office it showed a strong commitment to Westrail. It modernised Westrail -

Hon E.J. Charlton: You did nothing.

Hon A.J.G. MacTIERNAN: That is extraordinary. The Labor Government reopened the Perth to Fremantle rail service, established a railway line to the northern suburbs and electrified the entire suburban railway system. The Opposition is pleased the Minister has finally joined the Labor Party in supporting the movement to develop our railway system. That is very positive. The Opposition is saying that in doing so, it has treated staff very badly.

Hon E.J. Charlton: You are just a union thug.

Withdrawal of Remark

Hon JOHN HALDEN: The Minister for Transport cannot refer to any member in this House as a union thug or a thug. I ask that he withdraw.

Hon E.J. CHARLTON: I am happy to withdraw. Which word does the member not like?

Hon JOHN HALDEN: Thug.

Hon E.J. CHARLTON: I withdraw.

Debate Resumed

Hon A.J.G. MacTIERNAN: I am not at all offended by the Minister's ramblings.

Hon E.J. Charlton: I did not think you would be.

[Motion lapsed, pursuant to Standing Order No 72.]

**STATEMENT - BY THE ATTORNEY GENERAL REPRESENTING THE MINISTER FOR
PLANNING**

Metropolitan Region Scheme - St Andrew's Amendment

HON PETER FOSS (East Metropolitan - Attorney General) [4.30 pm] - by leave: The State Government has today tabled finalised documents for two major amendments to the Metropolitan Region Scheme - MRS - which represent a significant step forward in planning for the future growth of Perth. The St Andrews amendment is designed to guide the development of a new community in the Yanchep-Two Rocks area. The amendment secures areas of land for open space, housing, transport links and a planned strategic regional centre which will provide employment and business opportunities to support the future community. The amendment is further evidence of the State Government's recognition of the need to balance the demand for urban land with conservation and recreation needs. More than 1 000 hectares of land is reserved for parks and recreation, including a coastal foreshore reserve, an east-west green belt on the southern boundary between the amendment area and Eglinton, and a north-south open space link between Wilbinga crown land and Yanchep National Park. Importantly, the planned regional centre will include an area of district open space to form part of a green link from Yanchep National Park to the coast. Urban land included in the amendment has the potential to provide up to 38 000 residential lots, which could accommodate around 115 000 people, representing about 14 per cent of the expected metropolitan growth over the next 30 years. As Perth's population is expected to almost double over this time, it is important to provide adequate land to accommodate this growth in a way that is environmentally, socially and economically sustainable.

The amendment provides for northern extensions to the Mitchell Freeway and Marmion Avenue, east-west connections linking Marmion Avenue and the freeway, and the inclusion of a public transport spine for future extension of the northern suburbs rail system. I am also pleased to say that the carefully planned development has been welcomed by the local community. As a result of the community consultation process, only two minor changes have been made to the draft amendment advertised in January by the Western Australian Planning Commission. I can report also that the amendment has paved the way for cooperation between state government agencies and the major landowners, Tokyu Corporation, to embark on a program of development through a memorandum of understanding. This includes improvement to the Two Rocks town centre and marina, extensions to Marmion Avenue, and construction of a link road between Two Rocks and Wanneroo Road.

I also present changes to land zonings and reservations in Perth's eastern corridor in the form of the Eastern Corridor Omnibus No 2 Amendment. This amendment will refine broad land use plans in various parts of the corridor to cater for future needs for regional open space, industry and transport. As a result of a thorough public consultation process,

several changes have been made to the advertised amendment, including the removal of a proposed rezoning in Caversham and modifications to proposals in Hazelmere. The two amendments highlight the ongoing work of the State Government in preparing for the inevitable growth of our wonderful city.

CENSORSHIP BILL

Receipt and First Reading

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

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [4.34 pm]: I move -

That the Bill be now read a second time.

This Bill is the result of the first complete review by the Government in over 20 years of the State's censorship laws. The Bill will consolidate into one Act those provisions included in the Indecent Publications and Articles Act 1902, the Censorship of Films Act 1947, the Video Tapes Classification and Control Act 1987, and the Criminal Code, which deal with the classification and control of publications, films, videotapes, and indecent and obscene articles and objects. In addition, the Bill incorporates new provisions dealing with the classification and control of computer games and the control of computer services such as the Internet.

The Bill is part of a revised censorship scheme which has been introduced throughout Australia. The scheme is based on changes to the commonwealth procedures for the classification of publications, films and computer games contained in the commonwealth Classification (Publications, Films and Computer Games) Act 1995, and complementary legislation which has been introduced by the other States and Territories. For many years now, the Commonwealth Censorship Board has been classifying films and videos for all Australian jurisdictions and publications for all jurisdictions except Western Australia and Tasmania. This scheme was the subject of a report by the Australian Law Reform Commission in 1991. As a consequence of that report there has been a general revision of censorship laws and administration throughout Australia.

The Commonwealth has enacted the Classification (Publications, Films and Computer Games) Act 1995, which establishes a new Classification Board and Classification Review Board, sets out new administrative procedures for classification of material, and provides for the classification of computer games. The enforcement of classifications is left by that Act to States and Territories which have worked in cooperation to develop model enforcement provisions as a guide for individual jurisdictions. Each State and Territory has prepared its own legislation, and the revised scheme commenced operation on 1 January 1996. The passage of this Bill will enable Western Australia to formally participate in the scheme. Legislation to consolidate and amend the existing laws is long overdue. The present system is complex and difficult to access readily. There is a lack of consistency between the regulation of different forms of media and communication and information systems. There is also a degree of tension between the existing laws with some overlap between them. The Censorship of Films Act 1947 in particular has become outdated.

The Bill incorporates new provisions dealing with the classification and control of computer games and the control of computer services. This Bill has been prepared after consultation with the Commonwealth Government, the commonwealth Office of Film and Literature Classification, which currently carries out the functions of censor in relation to films and videotapes, state and territory censorship Ministers, industry representatives and government agencies and community groups. I note that the changes resulting from the revised censorship scheme will not affect the existing classifications for films and videos. The familiar G, PG, M, MA, R and X classifications will continue to apply to films and videos throughout Australia, together with a new RC - refused classification. Under the scheme, a person seeking to have a film or computer game classified in Australia will need only make a single application to the Commonwealth Censorship Board in Sydney and the resulting classification will apply throughout Australia. Other States and Territories have passed legislation adopting the classification decisions made by the Censorship Board under the commonwealth Act.

Western Australia, while a part of the scheme for the classification of films and computer games, will not adopt decisions made under the commonwealth Act; rather, an agreement will be entered into under which the Commonwealth Censorship Board will be appointed the censor for Western Australia and will make decisions under the Western Australian legislation about films - which includes videos - and computer games. Despite this difference, the classifications of films and computer games applying in Western Australia will be uniform with those applying

throughout the rest of Australia. Members should note that the Bill will continue the arrangement under which the Western Australian Minister may vary commonwealth classification decisions for films and computer games, and act as the censor in this State, when it is necessary to do so in the public interest. Film and computer game classification decisions will be made in accordance with a national classification code and guidelines which will help to apply the code. The code and the guidelines have been agreed to by all state, territory and commonwealth Ministers, and any changes to the code and guidelines may only be made with the consent of all Ministers.

The national classification code, which is a schedule to the commonwealth Act, sets out the principles which should be applied to classification decisions. Material will continue to be classified on the basis that children should be protected from material likely to harm or disturb them; adults should be able to read, hear and see what they want; and everyone should be protected from exposure to unsolicited material that they find offensive. The code also introduces a new principle; namely, the need to take account of community concerns about depictions which condone or incite violence, particularly sexual violence, and the portrayal of persons in a demeaning manner.

The Commonwealth will have no role in the classification of publications for Western Australia. As is done currently, publications will be classified by the state Minister, acting on the advice of a censorship advisory committee - currently called the State Advisory Committee on Publications. The classification of publications will, however, take into account the national classification code and guidelines. Much discussion has occurred on whether classification decisions reflect general community attitudes and standards. This ultimately depends on the membership of the boards and committees making classification decisions. There is a need, recognised by all censorship Ministers, to ensure that the membership of such boards and committees are, as far as practicable, broadly representative of the community. This is a matter to which the Minister has been paying close attention, in consultation with her state and territory counterparts.

Under the provisions of the Commonwealth Act, the Commonwealth Minister is required to consult with all participating state and territory censorship Ministers before recommending the appointment of persons to either the Classification Board or the Classification Review Board. This consultation process has been adopted by the Commonwealth in the 18 months leading up to the passage of the commonwealth Act. To ensure that board members remain aware of community attitudes, the Commonwealth has instituted a continuing community consultation program, which includes arranging for ordinary members of the public to come in and review films and indicate the classification and consumer advice they would award to them. This is supplemented by research projects on community standards. These programs will continue under the revised scheme. Careful consideration has been given by me to the composition of the state advisory committee on publications, to ensure that it represents an acceptable cross-section of the Western Australian community.

I now refer to some of the major provisions contained in the Bill. Part 1 of the Bill provides for the Bill to come into effect on a date or dates to be proclaimed. It is intended that the Bill will commence operation as soon as possible after enactment to enable Western Australia to formally join the revised censorship scheme. Part 1 of the Bill also sets out definitions for various terms used throughout the Bill. The definition of "article" has been extended to include objects and computer programs and associated data. The existing definition of "child pornography" in the Indecent Publications and Articles Act 1902 is deficient because it refers only to pictorial representations of children under the age of 16. Members should be pleased to note that this situation has been rectified with the definition of "child pornography" under the Bill extending to any article. This will capture publications, pictures and objects.

Part 2 of the Bill deals with the classification of publications. Under the current legislation, the Indecent Publications and Articles Act 1902, there is no provision for publications to be classified as refused; publications can be classified only as restricted or a recommendation made that they be the subject of proceedings on the grounds that they contain indecent or obscene material or constitute child pornography. The Bill makes provision for publications to be classified as refused, in addition to setting out the criteria for publications to be awarded a refused classification. The criteria include child pornography, bestiality, necrophilia and torture. These criteria reflect society's views of what material is simply beyond the pale and should not be made available under any circumstances. These new provisions will allow the Minister administering the Bill to effectively ban certain publications, a power which members might be surprised to know does not currently exist.

Part 2 of the Bill also contains provisions which empower the Minister to require publications to be translated into English when required. This is necessary to deal with the growing number of publications catering for specific ethnic communities. Publications will continue to be submitted on a voluntary basis for consideration by the censorship advisory committee. There is provision in the Bill to allow the committee to seek assistance from other persons when it is considering publications. The administration in this area will also be simplified by allowing publishers - a term which is widely defined in the Bill - to submit publications direct to the committee for report to the Minister, rather than requiring all publications to be referred to the committee by the Minister.

Parts 3 to 6 of the Bill set out the procedures for the classification of films and computer games, the approval of film and computer game advertisements, the reclassification of films and computer games, and the review of the censor's decisions on films and computer games. As noted earlier, films and computer games will be classified by the Commonwealth under an agreement to be entered into with the State. Part 3 sets out the classifications which may be awarded to films and computer games. Members will note that the Bill refers to an X classification for films and RC classification for films and computer games. Under the provisions of the existing legislation, the Video Tapes Classification and Control Act 1987, there is confusion in regard to the classification of X films in this State. Under the 1987 Act, most X films are unclassified films and not refused films as is generally thought. Private possession is, therefore, not an offence. The Bill clears up this confusion and sets out specific offence provisions for persons who sell or exhibit X films. The Bill does not, however, make private possession of X films an offence.

The Bill continues to provide for the compulsory classification of all films and makes specific provision for the compulsory classification of all computer games released after the Bill comes into effect. Computer games released before the Bill becomes law will be able to be called in by the censor where they contain contentious material. Films and computer games will not have to be classified if they contain merely business, scientific or educational material. With the rapid advances in computer and other visual technologies, the distinction between films and computer games can become blurred on occasions. The Bill allows the censor to exercise a discretion as to whether an application for classification can be treated as a film or a computer game.

Part 4 of the Bill provides for the censor to approve advertisements for films and computer games unless the advertisement promotes films or computer games which would be classified as RC or X or which are unclassified. For some years the cinema industry has been seeking a mechanism to allow it to screen advertising trailers for films in advance of the film being classified. This mechanism is sought for a small number of films and will enable the industry to release blockbuster films worldwide on the same date. The Censorship of Films Act 1947 does not allow advertisements for unclassified films to be screened. The Bill addresses the industry's concerns and will allow the censor to issue an exemption for the industry to screen trailers for a small number of unclassified films up to MA classification. At their meeting in July 1995 Ministers agreed that the censor should be allowed to grant exemptions for up to 60 films a year, which represents about 10 per cent of all cinema release films. Members should note that this exemption does not extend to films which are available only on video.

Part 7 is a major segment of the Bill which sets out offences and penalties for breaches of the Bill. Division 1 of this part deals with offences and penalties for indecent and obscene articles and child pornography. Many of the penalties in the existing legislation are outdated and do not provide a sufficient deterrent. For example, the penalties under the Censorship of Films Act 1947 are, with one exception introduced in 1987, in the hundreds of dollars. Penalties in the Indecent Publications and Articles Act 1902 are also inadequate. The maximum penalty for the distribution or sale of an indecent or obscene article or book is \$500 or a term of imprisonment for six months. In recognition of the inadequacy of existing penalties, a general increase in penalties has been undertaken. In formulating the penalties, regard has been given to proposals in other jurisdictions and as far as possible, consistent with our own policy imperatives, a degree of uniformity has been achieved. In addition, the penalties have regard to the principles outlined in the Sentencing Bill which this House has already debated.

One specific area in which penalties have been increased is that relating to child pornography. I believe all members would agree with me that child pornography represents the most pernicious form of pornography. It does this for two reasons: First, its very production depends on the exploitation of children; and, secondly, its distribution panders to, and, I believe, serves to encourage, those in our community who seek to obtain sexual gratification at the expense of our most valuable and precious resource. Under the existing legislation individuals who trade in child pornography are liable to a maximum penalty of five years' imprisonment or a fine not exceeding \$25 000, and those who possess or display child pornography are liable to a maximum penalty of 12 months' imprisonment or a fine not exceeding \$4 000. The Bill will make the sale, advertising, possession and display of child pornography a crime, exposing offenders to the Crimes (Confiscation of Profits) Act. In addition, persons who trade in child pornography will be liable to seven years' imprisonment, and persons who advertise, possess or display child pornography will be liable to five years' imprisonment. In both cases, offenders will face the alternative or additional penalty of a fine not exceeding \$250 000.

Publications, films and computer games classified under the Bill will be exempt from prosecution under the general indecency provisions, but they will be subject to offences where there is a failure to comply with the requirements attaching to the particular classification. This new approach will support the classification process for films and computer games. It will encourage people to have contentious publications classified, or they will run the risk of being prosecuted under the general indecency provisions. Under the Indecent Publications and Articles Act 1902 a prosecution for general indecency - printing and publishing indecent or obscene books and articles - cannot be initiated without the approval of the Minister. Under the Bill, the decision to prosecute for general indecency will

be left to the police or the Director of Public Prosecutions.

The Indecent Publications and Articles Act 1902 contains a savings provision which provides a defence to a prosecution in relation to recognised works of art or science which might otherwise be indecent or obscene. Members of the public have expressed concern about the application of this section in relation to contentious material. The savings provision has been retained under the Bill. However, it has been tightened up by including a public interest test. This means that in addition to claiming that a work is artistic or scientific, a defendant to a prosecution for general indecency will need to be able to prove that the material was published for the public good. The offence provisions for child pornography have been also extended to include the display of child pornography in any place rather than simply a public place or school as is the current position. In line with the new provisions which set out the criteria for publications to be classified as refused, new offences have been introduced in the Bill for the possession or sale of refused publications.

Part 7 of the Bill also sets out the offence provisions which relate to films and computer games. Although the provisions relating to computer games are new, they are very similar to the major offences applying to the sale, or exhibition, of RC, X or unclassified films. There are also heavy penalties for persons who privately possess refused classification films and computer games. One of the areas of the Bill which will be of considerable interest is that set out in part 7 division 6 dealing with computer services. These provisions are directed not only at the Internet but also at bulletin boards, E-mail and other services provided by on-line computer services. The provisions will also apply to other regional and local computer networks. The vexing issue of how best to regulate these expanding alternatives to traditional information media has been, and remains, the subject of numerous inquiries, the most recent and extensive of these being the report of the Australian Broadcasting Authority on on-line services which was released on 5 July 1996. Although the Commonwealth Government has accepted the ABA report, it is not yet clear precisely how the Commonwealth will implement the report, and it is in any event unlikely that the Commonwealth will have legislation prepared before 1998. While recognising the Commonwealth's action, it has been decided that we should proceed with our own provisions, which are not inconsistent with the ABA report, to meet current community expectations that there should be some regulation of the unacceptable aspects of these otherwise remarkable technological developments.

The Government is, of course, mindful that any action it takes is limited to persons within Western Australia and that much of what is available through the Internet, in particular, originates outside this jurisdiction. This is no reason not to implement provisions which will target persons resident in Western Australia. However, because the majority of unacceptable material is sourced from overseas, the Commonwealth Government must accept responsibility for pursuing the control of this material at an international level, and the Minister will use the forum of censorship Ministers to urge the Commonwealth Government to take a leading role in this area.

In drafting the relevant provisions regard has been had to the special features of the Internet and other computer services. The Internet and other computer services are major advances in information technology which should not be unduly restricted because of their misuse by a minority. The providers of computer services cannot be expected to know about, nor be required to inform themselves about, all material which passes through their services. Neither providers nor users of computer services can readily or reliably ascertain the age of other persons using the computer service, although service providers can take steps to limit the access to certain services to people who can provide some evidence as to age.

The content of computer services should not be required to be reduced to the level suitable for a five year old. Service providers who establish adults only services and who take reasonable steps to screen out minors should be protected from prosecution, as should users who provide material to adults only computer services under an honest and reasonable belief that only adults will have access to that material. Despite any legislation which is put in place, the ultimate responsibility for protecting minors must rest with parents and educational institutions that can, through physical supervision, control of access and use of filtering software programs, determine what their children or students can access via a computer service. The Bill will make it an offence for a person to transmit, obtain possession of, demonstrate, advertise or request the transmission of material that that person knows to be objectionable material via a computer service. Objectionable material is defined to equate with what would be refused classification if it were a publication.

These provisions will primarily affect users of computer services. Service providers will not be affected unless they know material on their service is objectionable material and continue to allow that material to be transmitted. In the circumstances service providers will be required to respond to complaints from parents or others about objectionable material being provided through their service or risk prosecution. It will also be an offence for a person to transmit or make available restricted material to a minor via a computer service. Restricted material is defined so as to equate with what would be classified as restricted if it were a publication. Defences are provided in relation to this offence

where the defendant complies with a code of practice, takes reasonable steps to avoid committing an offence, or believed on reasonable grounds that the material was not being transmitted to a minor or would not be made available to a minor. These provisions will affect both users and service providers. They will allow for self-regulation by service providers through the development of codes of practice and they will allow service providers to establish adults only services. I am pleased to be able to advise members that the local Internet community has taken the lead in forming an Internet association and is in the process of developing a code of practice. In this regard the local Internet community is considerably more advanced than those elsewhere in Australia and it is to be congratulated for the initiative it has shown. That association has also indicated its support for this provision.

Part 8 of the Bill provides the details of exemptions and exceptions from provisions of the Bill that are available to certain organisations and law enforcement agencies. The exemption provisions will allow for film festivals to be conducted without the need for the films to be classified where specific conditions are met. Part 9 of the Bill contains the enforcement provisions. The penalties for breaches of these provisions have been increased. Proceedings for a prosecution under the Bill may be commenced not later than one year after the date on which the material was classified. A prosecution under the offence of child pornography may, however, be commenced at any time. Part 10 of the Bill contains three divisions which refer to the structure of the censorship advisory committee and the arrangement which the State will have to enter into with the Commonwealth to carry out the functions of film and computer game censor. Members should note that a new agreement will be required to replace those agreements which were entered into in 1989 pursuant to the Censorship of Films Act 1947 and the Videotapes Classification and Control Act 1987. The new agreement is still being drafted and it will be tabled in the Parliament when it is finalised.

Part 11 of the Bill outlines the registration process for persons who sell restrictive publications. Although this process is similar to that contained in the Indecent Publications and Articles Act 1902, new provisions have been made rather than introduced that will allow an application for registration to be rejected by the secretary of the censorship advisory committee on various grounds. The register of persons will also become a public record available for inspection.

Earlier I referred to the fact that the Bill will continue to provide for this State's Minister to act as the censor in this State when the Minister is satisfied it is necessary to do so in the public interest. These provisions are set out in part 12 of the Bill and members will note that this power extends to films, computer games and advertisements. There is also a new provision which allows persons who sell or supply publications, films or computer games to demand certain information from a person if they have a reasonable belief that that person has committed, or is about to commit, an offence under the Bill. The final part of the Bill, part 13, contains the transitional and savings provisions which are required due to its introduction.

Some sections of the community argue that censorship is an invasion of an adult's democratic right to see, hear and read what he or she may wish. That right cannot be allowed to infringe upon the rights of others. Children and young people, in particular, must be adequately protected from material likely to cause harm or disturb them, and people who may be offended by certain material have a right to expect that it will not be thrust upon them against their will or without warning. Censorship is an important and, at times, contentious matter. It is the Government's role to ensure that a proper balance is maintained between the need to protect the community, particularly young people, from material that is likely to be harmful and distressing and the need to ensure that, as far as possible, individuals should have the right to determine what they shall hear. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

CRIMINAL CODE AMENDMENT BILL

Second Reading

Resumed from 19 June.

HON N.D. GRIFFITHS (East Metropolitan) [4.58 pm]: For the moment, I will be relatively brief, but I envisage continuing with my comments after question time. First I point out that the Australian Labor Party in this House supports this Bill.

Hon A.J.G. MacTiernan interjected.

Hon N.D. GRIFFITHS: We are taking a particularly conciliatory stance at the moment. This Bill is concerned with proposed amendments to two areas of the criminal code: The first is with respect to the expansion of the definition of public officer and the second is with respect to section 81 of the code dealing with official secrets, if I may refer

to it in that way.

[Questions without notice taken.]

Hon N.D. GRIFFITHS: The first part of the Bill deals with the expansion of the term "public officer". A public officer, as defined in section 1 of the Criminal Code, currently means a person exercising authority under a written law. The relevant definition recites a number of categories of public officer, including police officers; a person authorised under a written law to execute or serve any process of a court or tribunal; a public service officer within the meaning of the Public Sector Management Act; a member, officer or employee of any authority, board, corporation, commission, municipality, council or committee or similar body established under a written law; or any other person holding office under or employed by the State of Western Australia whether for remuneration or not. The proposed expansion is in two areas: First, by providing that Ministers of the Crown, parliamentary secretaries and members of Parliament become public officers; and, second, by providing that employees under the Public Sector Management Act will be public officers.

The definition of employee in the Public Sector Management Act is a person employed in the public sector by or under an employing authority. I note the definition of public sector in that Act means all agencies, ministerial offices, and the non-senior executive service organisation. I note that section 5 of the Public Sector Management Act sets out the definition of employing authority. That is a substantial section. The persons to be covered by that expansion are many and the expansion is relevant in many areas. Recently we sat on for two weeks because the Government wished to progress the Official Corruption Commission Amendment Bill through all stages. In the course of dealing with that Bill I made reference to the fact that the Criminal Code Amendment Bill had not yet been dealt with and this was a Bill of relevance to the substance of the Official Corruption Commission Amendment Bill. That Bill is the first area of relevance to which I draw the attention of the House. The other areas of relevance include a number of parts of the code. I propose to deal with chapter XII, section 81 in another context shortly. Chapter XIII and section 122 are relevant.

Members may be interested in one area in particular. If one is of the view that the capacity for deterrent sentences works, it may be comforting to know that if a public officer is assaulted the person who assaults that public officer can attract far greater penalty than someone who is not a public officer - that is related to the activity of the public officer. When members leave this place on parliamentary business they should be aware that if somebody were to assault them that person could be liable to imprisonment for 10 years - it should be a minimum - or a fine of \$12 000. Whereas, if this amendment is not carried, I am afraid that anyone who assaults members will be up for the paltry punishment of imprisonment for 18 months or a fine of \$6 000. If this amendment is passed we can feel that we are under greater protection than would be the case if it is not passed; that is if one takes that particular view of sentencing.

The second area of the Bill relates to section 81 of the code. The opening words of section 81 of the Criminal Code are - "Any person who, being employed in the Public Service . . .". This proposed change is to do with "any person who having been employed in the Public Service". That aspect is a change recommended by Mr Justice Murray in a different capacity, I think in 1982, in his review of the Criminal Code. I note that this change provides for a defence not specifically provided for in section 81 as it exists, in respect of those currently employed in the Public Service. That bears some examination. The defence is with respect to the words "publishes or communicates without lawful excuse, the proof of which lies on him". One could always argue that a lawful excuse is a lawful excuse, but those are the specific words. There may be a point in putting those words into section 81 as it now is. In any event it bears some consideration, and I will be interested in the Attorney General's comments on that.

Section 81 is referred to by some as "the Official Secrets Act". It is not an Act; it is a section, but it is similar in import to the operations of the Official Secrets Act in other jurisdictions. It is now part of a legislative regime different from what was the case until relatively recently. We now have a Freedom of Information Act. It is arguable whether that, in some instances, goes too far, and, in others, not far enough. They are matters of judgment and not issues which are before the House, but it is part of a legislative regime. We now have the Official Corruption Commission Act, and I note section 7H to which we have recently passed an amendment. That provides for persons to communicate matters of particular concern to the Official Corruption Commission and that has relevance to section 81 as part of an overall legislative regime. I note that from time to time some people who would fall under the definition of "public officer" engage in the practice of leaking information and, in doing so, defame people; that involves privacy considerations. In that context I refer briefly to the interim report of the Select Committee on the Western Australian Police Service, term of reference 3; appendix A, dealing with other jurisdictions, where reference is made to the position in New South Wales. I raise that because it is pertinent to Western Australia as the select committee said -

The WAPS is not alone in its officers' disregard for the privacy of the information contained in its computer data base. In NSW there is a belief that as long as police are not providing the information to anyone for money there is no offence, nor cause for concern.

The NSW Ombudsman rejected that argument:

The use of the Police Computer System for any reason other than official purposes is a serious breach of the law and a serious breach of the responsibility expected and demanded of any police officer. Improper access of information stored in this system cannot be tolerated . . . Excuses or claims in mitigation based on 'stupid games' and 'practical jokes' are quite unacceptable. Every citizen of this State is entitled to be confident that any personal information stored in the Police Computer Information System will be properly protected from unauthorised disclosure.

As part of the difficulties that arise in this area I note the select committee also made reference to what happens to police officers who make accusations about their colleagues, are found out by their colleagues and suffer a degree of intimidation. On this aspect of the Criminal Code, section 81, in part, touches on those areas. I make reference to those areas because section 81 is part of an overall regime. I am not sure we have the balance or all of the balances right, but the proposed amendment of section 81 is an improvement.

HON KIM CHANCE (Agricultural) [5.46 pm]: I am grateful for the opportunity of speaking, albeit briefly, because I wish to raise a matter and seek the Attorney General's advice. Hon Nick Griffiths pointed to one of the effects of the Bill being its role in expanding the meaning of the term "public officer". The effect is that Ministers, Parliamentary Secretaries and members of Parliament are now very clearly subject to, among other things, section 83 of the Criminal Code which is set out in the Attorney General's second reading speech. I will be grateful for the Attorney General's advice on how the effect of the application of section 83 will impact on the three groups, particularly Ministers. Section 83 was not written with the intention that it should apply to Ministers, Parliamentary Secretaries or members of Parliament. I imagine that it was written to apply to a public officer in the terms that the public officer was defined; that is, effectively as a servant of the public. I refer to subsection (b) of section 83 which reads -

Any public officer who, without lawful authority or a reasonable excuse . . .

- (b) acts in any matter, in the performance or discharge of the functions of his office or employment, in relation to which he has, directly or indirectly, any pecuniary interests; or

It could reasonably be argued that a Minister, in carrying out a Minister's normal functions - for example, the Minister for Primary Industry may also be a farmer - has lawful authority and reasonable excuse to perform a particular action from which he, because of the nature of his business, will gain a direct pecuniary benefit. However, it comes back to the early words - "Any public officer who, without lawful authority or reasonable excuse" and I imagine a Minister's apparent conflict with the pecuniary interest part of section 83 would be overcome by that. I would like the Minister to take us through that aspect.

Hon Peter Foss: Can you give me an example?

Hon KIM CHANCE: Yes. Take, for example, the present Minister for Primary Industry, who is a farmer. If he were in a drought declared area and he authorised under his ministerial authority specific assistance for farmers within the drought declared region and he were one of those farmers, it could be argued that he had granted himself by his ministerial authority a specific vote of public funds; that is, that he gained through his pecuniary interest by a decision he made as a Minister. I can see that it is likely that the original part of the section that mentions the question of lawful authority and reasonable excuse would cover him; however, for the sake of the record I would appreciate the Attorney General's advice on that. I want to know how far the meaning of lawful authority and reasonable excuse is stretched to cover those issues of pecuniary interest which could arise when a Minister is involved in an industry for which he has ministerial authority.

HON PETER FOSS (East Metropolitan - Attorney General) [5.51 pm]: I will deal with the last question first. The rules of pecuniary interest go into fairly broad ranging areas in matters where that interest is shared with other people. For instance, when we as legislators pass a law that might reduce tax, we all receive a benefit. That would not amount to pecuniary interest because it is so general in its terms. It would be a little strange if the Attorney General could not deal with matters relating to lawyers. He may amend regulations and perform tasks of that nature, which will obviously affect lawyers in one way or another, and usually by definition the Attorney General is a lawyer. It gets a little closer when we talk about defining an area as being drought affected and when the number of farms in

it may be small.

Hon Kim Chance: It might be only two or three farms.

Hon PETER FOSS: Yes. It is closer still if that relief is granted to oneself. In that narrow an area my practice has been that before doing so, if it looks like being remotely close to me, I tell the Premier that is the case. I ask him whether he agrees with the conduct, and then I approve it. Although I cannot delegate my power to another Minister, other than by my leaving the State and my power being passed over to an acting Minister, as a Minister I should put myself in the position that what I am doing is checked by another Minister. When another Minister says that it is a decision he would have made, the first Minister can go ahead and make the decision. It puts the Minister in a position of lawful excuse and justification when he goes through the procedure to ensure that somebody else has checked it. I do not know whether a Minister must do that. If any possibility exists that I might be seen to be within a class that will benefit from something I might do, I at least ask somebody else to check it before I do it. One could go to the extreme of having an acting Minister appointed. This situation applies even to public servants. Sometimes an officer is the only public servant who can make a decision. The appropriate procedure in those circumstances is to remove any possibility that the officer is being partial by taking that action. He will then be protected by that qualification. It applies just as much to public servants as it does to Ministers, although perhaps Ministers make more broad decisions that may affect them.

Hon Kim Chance: It is more likely to occur on a number of occasions where the Minister is concerned. I raise this question because of the interpretation that has been applied to the old Local Government Act and, presumably, the new Act on the question of secondary pecuniary interest. Quite astounding determinations have been made on the degree of culpability of individual councillors in decisions they have made in cases where they may have advantaged only the accountant who also happens to do that councillor's books.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! Perhaps the member might be able to reopen the debate.

Hon PETER FOSS: The Local Government Act is different in that if a pecuniary interest exists, it must be declared. This legislation is about gaining a benefit, whether pecuniary or otherwise, for any person; it is not just about having a pecuniary interest. Many cases relating to that could arise under the Constitution. Under certain circumstances, a person can be disqualified as a member of Parliament from holding an office under the Crown. For instance, if a member does legal work for the Crown in an isolated contract, that is not held to fall within that provision; whereas if a member were employed by the Crown Law Department, he would be disqualified. There is a vast difference between the type of pecuniary interest Hon Kim Chance talks about under the Local Government Act and the sorts of pecuniary interest this legislation covers.

Hon Kim Chance: It was the words "or otherwise" that bothered me. Perhaps we can discuss that in Committee.

Hon PETER FOSS: Hon Nick Griffiths answered his own questions because he picked up the very points in the legislation. We have a scheme for excuse under our current law. The Freedom of Information Act and the Public Sector Management Act cast a duty on chief executive officers to disclose information to the Anti-Corruption Commission. The overriding powers of section 7H of the ACC Act state that, notwithstanding any other duty, a person can disclose to the ACC.

As members know, at the moment instruction 711 under regulation 8 of the Public Service regulations applies a blanket duty to public servants. At the moment the Public Sector Standards Commission is working its way through departments and areas to abolish the blanket duty and to try to have a duty that is limited to only those documents that are necessary. The objection in the past to the blanket duty has been that some things will vary from department to department that should not be part of the duty to keep secret. As the Public Sector Standards Commission works its way through that, it will eventually be able to give a secrecy duty statement to each area which will remove many matters that are currently subject to secrecy. It will therefore be restricted only to those things that must absolutely be subject to secrecy. Much of the ambivalence about whether there should be a duty of secrecy in this day and age will go once that duty has been more specifically stated and has been liberalised.

Hon Nick Griffiths raised a query about the question of "without lawful excuse". He may have noticed that I put an amendment on the Notice Paper because another person - the Director of Public Prosecutions - also raised a query about it.

Hon N.D. Griffiths: I received it a few moments ago.

Hon PETER FOSS: He did not like it for the same reason as Hon Nick Griffiths did not like it.

Hon N.D. Griffiths: I did not express a view one way or the other.

Hon PETER FOSS: Hon Nick Griffiths certainly raised queries about how it would work. The DPP says that it is potentially ambiguous. He says -

I understand the instructions are to exempt from criminal responsibility a person who although under a duty to keep secret a document at the time that they ceased being a public servant is relieved of the duty because at the time when the document is actually released there is no duty to keep secret . . . I am not sure that this situation is met by (3)(b) because the person, when they ceased to be employed, was under the duty to keep secret.

They are either under a duty to keep secret or not. Hon Nick Griffiths raised various circumstances under which they would not be under a duty to keep secret. If they are not under a duty to keep secret, it should be a total defence; it should not be a defence upon which it is then required to prove a point.

Sitting suspended from 6.00 to 7.30 pm

Hon PETER FOSS: I was making a point in regard to the “without lawful excuse” proof that is upon a person in matters raised by Hon Nick Griffiths. I can tell members the source is the Commonwealth Crimes Act. It does not appear to be appropriate. Someone either has a duty or does not have a duty. If someone has a duty there is no reason for a lawful excuse. If another Act says that someone can do it, that duty is overridden by the other Act. If no duty arises, then of course the section does not apply. Therefore, the amendment I will be suggesting deals a bit more accurately and appropriately with the matter than was originally the case. With that, I have dealt with the matters raised by members opposite and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon N.D. GRIFFITHS: I have had an opportunity of reading the amendments, of which there are not many. This Bill does not contain many words. However, I wish to point out that I would appreciate, as I am sure all members would, receiving in future amendments a little earlier than has been the case this evening. I am sure it was an oversight, but I first saw the Supplementary Notice Paper late this afternoon.

Hon PETER FOSS: I fully agree with the sentiments expressed by Hon Nick Griffiths. Had I had the amendments earlier, I would certainly have given them to him. I could have given them to him in their rough form. Normally we have a period of time when we are operating as a Parliament prior to a sitting such as this. In those circumstances I am sure that I would get the amendments to him much earlier. I do apologise to the Committee and I will certainly attempt to make sure that it does not happen again.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Section 1 amended -

Hon KIM CHANCE: Going back to the point I raised during the second reading debate, I raised it in that forum because I thought there may have been some need to refer to the question in the part of the debate dealing with policy as opposed to during the Committee stage. By and large the Attorney General has answered the questions that I raised. I have only one matter which I would like to clear up at this stage; that is, the effect that clause 4 has by including Ministers, Parliamentary Secretaries and members of Parliament within the ambit of section 83 of the Criminal Code which refers in its last part to a benefit whether pecuniary or otherwise. The two words “or otherwise” rang alarm bells in my mind. During the second reading debate I referred to the effect of the application of secondary

pecuniary interest in respect of the Local Government Act. It occurred to me that including the words "or otherwise" could reasonably be interpreted to have an effect similar to the secondary pecuniary interest ambit of the Local Government Act. The issue I identified in respect of the Local Government Act was the reasonably well publicised case of a finding that a secondary pecuniary interest had been involved in an action by a councillor simply because that action benefited a person who had pretty tenuous financial connections with the councillor. I think it was the councillor's accountant, although I may be wrong. Those words "or otherwise" seem to me to open up a potentially wide ambit in terms of whether a Minister may have made an action which quite possibly may not be covered by those earlier words of "lawful authority" and "reasonable excuse". It could be deemed to be endowing something similar to a secondary pecuniary interest outside of the scope of the Act.

Hon PETER FOSS: Let us look at the section because it contains some interesting combinations and permutations. My recollection is that the words "or otherwise" are to be read to give as broad as possible an interpretation. I do not think that one can say the words "or otherwise" are constrained to mean something in the nature of a pecuniary benefit but are to be read broadly. My recollection is that it would be read accordingly.

Hon Kim Chance: That is possibly of even more concern.

Hon PETER FOSS: It is necessary to go back to look at paragraph (a), which reads -

acts on any knowledge or information obtained by reason of his office or employment . . .

That is, acting so as to gain a benefit. It is hard to think of circumstances where the use of that knowledge to gain benefit would be excused. It is not that a person gained a benefit, but that he or she acted on that knowledge to gain a benefit. To take a Minister, if the benefit is available to that person because he or she has the knowledge, that person is constrained not to use that knowledge, in the same way as an inside trader is constrained. It will not stop a person buying shares, but it stops him if he has knowledge that something will happen. I do not have a problem with that; it is appropriate, and that is how it should be whether it be a public servant or a Minister.

Paragraph (c) refers to "acting corruptly in the performance or discharge of the functions of his office or employment". That is not a problem. The only one in which we have an interest is paragraph (b), which refers to an act in any matter - so the person acts in the matter - in the performance or discharge of the functions of his office or employment in relation to which he has directly or indirectly any pecuniary interest. Firstly, he must have a pecuniary interest.

Hon Kim Chance: It concludes "or".

Hon PETER FOSS: "So as to" are the critical words. One must act "so as to" gain a benefit. Therefore, the person is acting "for the purpose of"; that is, so as to. If a person acts so as to gain a benefit, he or she would be caught. The distinction lies where a person incidentally gains a benefit when acting properly and not for the purpose of gaining that benefit. Each of the paragraphs has an element of impropriety, not of coincidence. Certainly, paragraph (a) has clear impropriety because the person is using the knowledge so as to gain a benefit. The third paragraph refers to "acting corruptly so as to gain". The "so as to gain" is the critical part.

Hon Kim Chance: You could almost read "so as to gain" as specifically to endow.

Hon PETER FOSS: That would certainly be included. It would have to be an element of a person's reasoning "so as to gain" rather than incidentally gaining along with many other people. The advisers agree that "or otherwise" are not generous words and are used to give as broad a meaning as possible.

Hon KIM CHANCE: I thank the Attorney General for his explanation, after which I am much happier on this matter. It was necessary for that point to be teased out onto the record.

Returning to the points I raised at the beginning, it seemed to me that this section of the Criminal Code was not written with the intention of being applied to that class of person; namely, Ministers, Parliamentary Secretaries and members of Parliament. By making later changes to the legislation to broaden the scope of the persons who will be covered by it, it needed to be looked at extremely carefully to ensure that we had not changed its effect. I am now more satisfied that it does not appear to do that, and about the application of section 83. I have some nagging doubts, but they are not ones I can articulate, regarding how it will affect Ministers in the future. No doubt, practice will prove whether those doubts are founded.

Hon PETER FOSS: Paragraphs (b) and (c) are totally appropriate. How deeply can a person act in that manner in

relation to paragraph (b)? Plainly, one is entitled to act in that way when a person is affected in the same way as any other citizen. Otherwise, it would not be possible for Ministers to do anything.

Hon Kim Chance: It is not just Ministers. When it is read in the context of members of Parliament, it takes on a whole new meaning.

Hon PETER FOSS: Seldom do members of Parliament have an Executive position.

Hon Kim Chance: Members of Parliament can be opposition members.

Hon PETER FOSS: How could such a member be caught in any way by this?

Hon N.D. Griffiths interjected.

Hon PETER FOSS: There are elements by which a member could be picked up for acting corruptly.

Section 83 is difficult because I do not see it acting other than with Executive power, and the only people with that power are Ministers, Parliamentary Secretaries and other public officers. I do not see members of the backbench on either side of the Parliament having that power.

Hon Kim Chance: Members of committees have access to information, and they may act on that information.

Hon PETER FOSS: Probably one would be acting corruptly in that case and should be caught by the provision.

Clause put and passed.

Clause 5: Section 81 amended -

Hon PETER FOSS: I move -

Page 3, lines 9 and 10 - To delete the following words -

without lawful excuse, the proof of which lies on him,

Page 3, after line 18 - To insert the following new subsection -

(3) Subsection (2) does not apply where the person publishes or communicates any fact or document referred to in that subsection in circumstances in which the publication or communication would not constitute an offence against subsection (1) if, at the time of publication or communication, the person were still employed in the Public Service.

I explained in the reply to the second reading debate that this amendment was appropriate. It arose from a query raised by the Director of Public Prosecutions. One has a duty, and that duty either does not arise or is overridden by another Act, be it FOI or the OCC. Unless that duty is removed by that other Act, there is no reason to have any lawful excuse whatsoever. Proposed subsection (3) deals with the question of that duty being lost over time. One way duty is lost is when a document becomes part of the public record; therefore, it is no longer a duty to keep it private. Also, the duty may be lost for various other reasons.

Amendments put and passed.

Clause, as amended, put and passed.

Title put and passed.

Leave granted to proceed forthwith through remaining stages.

Bill proceeded through remaining stages, and transmitted to the Assembly.

STATUTORY CORPORATIONS (LIABILITY OF DIRECTORS) BILL

Second Reading

Resumed from 19 June.

HON N.D. GRIFFITHS (East Metropolitan) [7.51 pm]: The Statutory Corporations (Liability of Directors) Bill has the support of the Australian Labor Party in this House. As the Attorney General pointed out in his second reading speech, the purpose of the Bill is to declare that members of government corporations owe to the corporations the same duties as a director of a company under the Corporations Law owes to that company, and to impose on the directors of government corporations responsible for business activities specific duties to act honestly, to exercise reasonable care and diligence and not to make improper use of information or position. Substantially, the Bill will achieve that purpose.

It provides some discretionary safeguards for the affected members of corporations in its scheme which sets out duties of directors of statutory corporations generally. It makes specific provisions for certain corporations specified in the schedule, seeks to deal with questions of ministerial directions and provides circumstances in which there will be relief from liability.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Cheryl Davenport) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon N.D. GRIFFITHS: I note that the observations made by me and the Attorney General about Order of the Day No 1 apply also to this Bill. The amendments on the Supplementary Notice Paper in the name of the Attorney General relate for the most part to the imposition of summary conviction penalties as an alternative. I do not propose to make further observations about them in the course of debate. I note with regard to clause 9 that, apart from the addition of summary conviction penalties, it is essentially a rewording which is more appealing than the current wording in the Bill.

Hon PETER FOSS: I wish to again put on the record my apology, and I agree with the member.

Hon N.D. Griffiths: I am not asking for an apology.

Hon PETER FOSS: I am giving it.

Hon A.J.G. MacTIERNAN: I know this does not necessarily bear directly on this clause, but increasingly it is the practice for private corporations to take out insurance to protect directors in the event of action for breach of duty or negligence in the exercise of their duty towards their shareholders, and possibly third parties. In making this equation between the directors of statutory corporations and those in private companies, has the Government given thought to providing the same insurance, as a matter of practice? Without that it will become increasingly difficult to find persons who are prepared to take on the considerably onerous task of acting as directors in such corporations.

Hon PETER FOSS: Yes, clause 15 specifically deals with that.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Duties of directors -

Hon KIM CHANCE: I raised a matter this evening in private with the Attorney General and I must confess I am still a little confused. Therefore, I thought it appropriate to go through this matter in Committee. When I became a member of the board of the then Water Authority in 1984, members were clearly advised of their legal responsibility as directors and their duty of care to the corporation. The wording at that briefing was almost exactly the same as that I heard when I first became the director of a public company a couple of years earlier. My recollection is that the briefing was a requirement because of an earlier court case, presumably in either the Supreme Court or the High Court of Australia. Certainly, every one of those members of the board of the statutory corporation had a clear

understanding of their responsibility. That was 12 years ago. I absolutely endorse these amendments and applaud the Government for introducing the legislation. However, it seems there may be some understanding among directors of statutory corporations that many of the requirements already exist. What is the net effect of the changes brought about by this legislation? What duty is owed to the corporations by the directors of those corporations prior to the passage of this Bill?

Hon PETER FOSS: I went into the history of this matter in 1989 when I first introduced this Bill as a private member. The whole concept of directors' duties flows from the concept of fiduciary duty. It arises from the fact that a person is dealing with somebody else's property. The essence of it is that the law with regard to trustees was extended to the corporations law. In fact, the corporations law in the early stages was immediately assigned to the Chancery division - I think it still remains in the Chancery division in the United Kingdom - and much of the corporations law is treated as being the law of equity. Therefore, over time they formulated the duty of directors to act in a fiduciary capacity with regard to the assets and, I suppose, the other matters which related to the corporation. That continued to be a matter of civil law; the penalties were civil penalties and were the imposition of compensation and so forth, in equity rather than in damages, and an obligation to make good what the person had caused to go wrong.

I referred at page 2517 of *Hansard* of 21 September 1989 to a major problem in Victoria with the Freighters Ltd failure and stated that that led to a section that is new -

"and so far as is known is not to be found in any other legislation relating to companies in the English speaking world".

It was introduced to impose a criminal penalty for the breach of those duties, which until then had been treated as civil. That was picked up in 1961 by the Uniform Companies Code. The two duties then ran alongside each other: One was a liability at law to make good, which was a civil liability, and the other was a criminal liability under the Companies Act, where a person who breached those duties would be found guilty and would be punished by a term of imprisonment or a fine. It is interesting that some further civil penalties would flow after a person had been convicted.

When I introduced the Statutory Corporations (Directors' Liability) Bill in 1989, I argued that by the sheer force of logic, the duty that had applied originally to companies under the Companies Act should apply also to statutory corporations, and I said at page 2517 that -

Fiduciary duties are imposed on individuals in a number of circumstances and they were invented and elaborated in the Court of Chancery in the 18th and 19th centuries to ensure that persons who hold assets or exercise functions in a representative capacity for the benefit of other people act in good faith and conscientiously protect the interests of those they represent. The best known and the easiest example of the imposition of these duties is with respect to trustees of property.

However, in the 19th century it was extended to others who acted in a representative capacity - such as agents, company promoters, and directors of companies. In the cases dealing with these duties the directors were often metaphorically described as "trustees" and it was made quite clear that they were bound to use fair and reasonable diligence in the management of their company's affairs and to act honestly. The law developed over the years with the duties of the director being more closely defined as the courts worked out the appropriate measures.

However, there had never been a case with regard to statutory corporations, although it seemed logical that that should apply, and that remained the situation until this year with the case of Marcus Clark and the Bank of South Australia, which allowed that point of law to be accepted by the courts.

Duties had been imposed by Statute - I do not remember one for the Water Authority directors - which were either civil or criminal. A number of statutory corporations had from time to time little bits added into them; for instance, to date we have had the SGIC, the R & I Bank when it was still owned by the State, and the new electricity, gas and water corporations, all of which had both civil and criminal duties. I am not aware of whether that existed prior to the end of last year.

Hon Kim Chance: It might have been a mistake, or an assumption on the directors' part.

Hon PETER FOSS: I think they were right in telling the member that they had the duty. I note that the Auditor General, even before the introduction of this Bill, said that such a liability did exist at law, civilly, but not criminally.

One of the reasons that this is a declaratory Bill is that it is not changing but declaring the law. Parliament has the capacity, in the same way as a judge in the court, to say, "This is the law and it always was the law". We are not changing the law. We have carefully framed the Bill in such a way as not to suggest that we are in any way changing the law. We are saying, "This is the law".

Hon A.J.G. MacTiernan: You run into it by prescribing certain penalties.

Hon PETER FOSS: Those parts are not declaratory. The words "It is declared" are used quite specifically in certain clauses. It is saying, "This is the law". Those clauses where the penalties are added are not declaratory but are actual statutory enactments which are introducing new law. I do not think they were wrong in telling the member that; they were quite right, because that was the law, but no criminal penalty was attached.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Interpretation -

Hon PETER FOSS: I move -

Page 5, after line 17 - To insert the following definition -

"summary conviction penalty", in relation to a crime, has the same meaning as in section 5 of *The Criminal Code*.

As noted by Hon Nick Griffiths, the amendments to clauses 7, 9, 11 and 12 add the concept of summary conviction penalty.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 8 put and passed.

Clause 9: Duty to act honestly -

Hon PETER FOSS: I move -

Page 6, lines 6 to 11 - To delete the lines and substitute the following -

(2) A person who contravenes subsection (1) -

(a) with intent to deceive or defraud -

(i) the corporation; or

(ii) creditors of the corporation or of any other person; or

(b) for any other fraudulent purpose,

is guilty of a crime and is liable to a fine of \$20 000 or imprisonment for 5 years, or both.

Summary conviction penalty: A fine of \$12 000 or imprisonment for 3 years, or both.

(3) If subsection (2) does not apply a person who contravenes subsection (1) is liable to a fine of \$5 000.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 10 put and passed.

Clause 11: Duty not to make improper use of information -

Hon PETER FOSS: I move -

Page 6, line 25 - To delete the line and substitute the following -

(2) A person who contravenes subsection (1) is guilty of a crime and is liable to a fine of \$20 000 or imprisonment for 5 years, or both.

Summary conviction penalty: A fine of \$12 000 or imprisonment for 3 years, or both.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 12: Duty not to make improper use of position -

Hon PETER FOSS: I move -

Page 7, line 6 - To delete the line and substitute the following -

(2) A person who contravenes subsection (1) is guilty of a crime and is liable to a fine of \$20 000 or imprisonment for 5 years, or both.

Summary conviction penalty: A fine of \$12 000 or imprisonment for 3 years, or both.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 13 and 14 put and passed.

Clause 15: Corporation's power to insure -

Hon PETER FOSS: I move -

Page 8, line 14 - To insert after "section" the words "9 or".

This extends the powers to insure because there is a possibility of some intermediate position between honesty and wilful breach and it allows for that gap. In many cases dishonesty would be a wilful breach. In some cases it may not be dishonesty. Honesty in law can be a slightly different terminology from ordinary, everyday language.

Hon A.J.G. MacTIERNAN: I am a bit concerned about this amendment. When I raised an issue on the short title - when I had not read the Bill - I expressed support for the concept of insurance to parallel that provided to directors of private corporations. However, I wonder with this amendment whether the Minister is not going too far. It is one thing to insure, as one should quite properly, against loss arising out of negligence; it is another matter to insure against loss arising out of dishonesty.

Hon Peter Foss: It picks up those circumstances where one is deemed to have notice. One cannot hold an honest belief if one should have known certain facts.

Hon A.J.G. MacTIERNAN: I am not sure that interpretation is right. I have not heard of any provision that deems a person to be dishonest. There are certainly provisions which deem that a person should have known something and if he did not know or acted without properly informing himself that comes quite clearly within the purview of clause 10 which is the duty to exercise reasonable care and diligence. This other class is well beyond that. We are talking about acting honestly. We are providing insurance for people so that if they act dishonestly they will not cop the loss themselves. I support absolutely the notion that we should provide insurance in respect of accidents. I hope, given the Attorney's support here, when later this week I introduce my Bill for the protection of ordinary, everyday workers to ensure that they have protection against acts of negligence, the Minister will extend the same support.

Hon Kim Chance: I am sure the Attorney General will flock to your support.

Hon A.J.G. MacTIERNAN: I am sure, because he will see that just as it is quite proper that we provide protection against mistake for company and corporation directors, we should also provide that for ordinary, working people in the State. With this amendment we are going beyond that. Unless the Minister and his adviser can come up with something quite strong, we must be very concerned about this amendment and we may have to oppose it. We must look at the class of actions that would be classified as a breach of honesty. I imagine that if there were any suggestion from the Labor side of the House that we should extend insurance protection to cover people who behaved dishonestly, there would be an outcry from the Attorney General. Perhaps the Attorney General will give us yet another very instructive dissertation on the scope of things he believes will be incorporated in this concept of honesty.

Hon PETER FOSS: There was a belief that that which is not honest is dishonest which led to that section being left out in the first instance. It was pointed out that, under the Corporations Law itself, section 232(2), which is the one which contains the requirement to act honestly, was not excluded from the insurance provision. The starting point was that we should first consider why the Corporations Law allowed insurance under those circumstances when it also prohibits insurance where a person has been guilty of a wilful breach. It went to a case of Australian Growth Resources Corporation Pty Ltd (Receivers & Managers Appointed) v Van Reesema which was a decision of King, CJ, South Australia as follows -

Mr Van Reesema had personally taken over the business and the assets of the family company when it appeared to be failing, to protect his director sons from actions against them. Later, after the company failed, the court held all the directors to be guilty of a breach of s229(1) of the Code, now s232(2) of the Law.

The court said: Sub-section (1) (of s229) imposes an obligation on an officer of the company to 'at all times act honestly in the exercise of his powers and the discharge of the duties of his office'. The penalty provision distinguished between acts done 'with intent to deceive or defraud the company, members or creditors of the company or creditors of any other person or for any other fraudulent purpose' and other acts, thereby recognising that an officer may fail to 'act honestly' within the meaning of the section without fraud.

"The section therefore embodies a concept analogous to constructive fraud, a species of dishonesty which does not involve moral turpitude (wickedness). I have no doubt that a director who exercises his powers for a purpose which the law deems to be improper, infringes this provision notwithstanding that according to his own lights he may have been acting honestly."

I think the important thing about it is that someone may think he is acting honestly and may be intending to act honestly, nonetheless he may fall foul of section 232(2).

Hon A.J.G. MacTiernan: He may not necessarily be acting honestly in one sense, but the intention may not be to deceive the court. It is not that he would be mistaken about his honesty. The lack of his honesty is not directed at acts of deceit.

Hon PETER FOSS: That is exactly the point. In this South Australian case the person was trying to take the responsibility over from the sons. He was held liable for not having acted honestly because, strictly speaking, it was not for the benefit of the corporation.

Hon A.J.G. MacTIERNAN: Is that liability insurable?

Hon Peter Foss: Yes, but it is still subject to the qualification in clause 15 that corporations cannot insure against a wilful breach.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 16: Interpretation -

Hon A.J.G. MacTIERNAN: The concept of this division seems to have arisen directly from the Attorney General's interpretation of various events of the late 1980s and is to allow a statutory corporation to override the direction of the Minister. It goes through a fairly -

Hon Peter Foss: It challenges the legality of it.

Hon A.J.G. MacTIERNAN: There are two aspects. One is that it is not simply a question of legality. It can also challenge the determination of the elected Minister if, in the view of the corporation, it is not in the best interests of the corporation to comply with the direction. I do note there is a two stage process and that the corporation must write to the Minister within seven days explaining why it is not obeying the direction. The Minister can say that he or she stands firm and that the corporation must go ahead with direction. Although I can understand what is being sought to be achieved here and although ultimately the Minister has the say, I find it a little excessive. At the end of the day statutory corporations are not run for their internal benefit; presumably they are run for the overall benefit of the community of the State. They might not necessarily be the same thing. What might personally advance the interests of, for example, AlintaGas, might not be the same as what advances the interests of the people of Western Australia in the management of our gas resources. I find the provision somewhat curious in relation to not being in the best interests of the corporation. Had I been Attorney General, I would not have put that provision in the legislation.

The second stream of this aspect is that if the direction is unlawful, the Minister cannot override the determination of the corporation. No-one would want to say that the Minister should have the power to make an organisation do something that is unlawful, but the complexity here is that, particularly in corporation and financial law, it is often very unclear what is lawful and what is unlawful. It will often be a question of competing bits of paper that both sides may have from their respective Queen's Counsel. Some attempt is made to address this. A corporation has the standing to apply to the court for relief against a direction that the corporation considers to be unlawful. I will go through a couple of examples of how this might work. Let us take the situation where a Minister directs AlintaGas, say, not to waste more money on entering into contracts with football teams that give AlintaGas executives the right to corporate boxes, a sort of populist move a Minister might want to make. AlintaGas might find a QC who can find, under the particular circumstances, that that is unlawful. According to the schema of this legislation, AlintaGas writes off to the Minister saying that his direction is unlawful, and presumably giving its reasons. The Minister says, "I have advice that it is not unlawful and you are to do it." There is no compunction on the organisation to do that at all. Indeed there is not even any compunction on the corporation to take the next step, which is to take the matter to a court to get a declaration that states that his direction is illegal. The way the Bill is expressed, it would be sufficient for the corporation to continue to assert that the direction was unlawful and not take the step of going to court. It seems to me that the onus of proving that a direction which has been confirmed to be unlawful should fall upon the corporation. The corporation should only have the power to avoid operating under that direction if it has taken steps to have the declaration sought from the court.

Hon PETER FOSS: I will start with the other steps. The member has said that there may very well be a state interest which is different from the corporation's interest, and I agree with that. That is the difference between the position of directors and that of shareholders at a general meeting. This is not changing the law; it is stating the law. The duty of the directors of a corporation is to the corporation, not to the State. They have an obligation to act in the best interests of the corporation. That can be overridden by the Minister in the same way as shareholders can override the directors. If the people who own the company - that is, the people of Western Australia - want something else done for the benefit of the corporation -

Hon A.J.G. MacTiernan: I appreciate that.

Hon PETER FOSS: - the Minister gives the direction and, therefore, the corporation must do it.

Hon A.J.G. MacTiernan: I just wonder whether we must have a fairly convoluted process.

Hon PETER FOSS: The reason is to find a track. One big problem we had - the member is quite right; it came out of the WA Inc era -

Hon A.J.G. MacTiernan: The first WA Inc era.

Hon Kim Chance: The pre-Court WA Inc era.

Hon PETER FOSS: The only problem we had there was that directions tended to be given sub rosa. The excuse that was given afterwards was that it was understood and the Government made it clear that it wanted this. When we tried to find out who had made it understood, it was often quite difficult to pin it on anybody who had said it and why. This provision requires that if people want to say that the Government did it - even though it was not in the interests of the corporation - they must get something in writing from the Minister. At least the direction given by the Minister and the reasons the Minister required it will be on the record. It puts in an accountability tracer. The big problem with what happened with the State Government Insurance Commission was finding out the name of somebody who made that disastrous decision and also why it happened. Members opposite will find that the people in government

said that it was nothing to do with them; that the directors just did it. The directors said that they did not do it. They pointed to Kevin Edwards as the person who indicated they should do it.

Hon A.J.G. MacTiernan: Would it not have been easier to insert a provision to require the Ministers to give their directions in writing?

Hon PETER FOSS: No. That still does not deal with the question of whether it is in the interests of the corporation. Ninety-nine times out of a hundred the question will not arise. The directors must be conscious of the fact that they must act in the interests of the corporation. They should have that in mind all the time. The only time this will need to be put into effect is when a question arises. The directors may say that they are obliged to act in the interests of the corporation, but what has been indicated to them is not in the interests of the corporation. They now have a process. We do not want this process followed every time; it only needs to be followed when the warning bells ring. We do not want a system where every time one talks to a corporation one must give written directions explaining why one has asked it to do something. We can transact on a normal basis and as soon as the bells ring then this process can be followed and we can say, "We do not think you should do that because it is not in the interests of the corporation." Having raised that point, on the one hand the Minister might say, "I accept that, fair enough. Do not worry about that direction"; whereas on the other hand, he may say, "Yes you are right, but the interests of the State require it." The corporation is then given the direction and it is obliged to carry it out. That is what subclause (4) provides. If they then say that they think it is unlawful, that does not mean it is unlawful. A direction which is claimed to be unlawful but which is lawful is just as much enforceable by the Minister as any other direction that he has confirmed. If he tells the corporation to do it and it does not then it is in breach of subclause (4). There are two possibilities. A corporation is in breach of subclause (4) if it has been given a lawful direction and it has not carried it out. That is a breach of duty.

Hon A.J.G. MacTiernan interjected.

Hon PETER FOSS: It then has a protection. If it believes it is unlawful and the Minister says that the corporation must do it, it has standing to challenge. If it does not carry out the direction, the directors will run the risk of being sacked by the Minister. However, the Minister could go to the court and require them to carry it out. They would then have to say that they have an excuse and it would be upon them to show that it was unlawful. They had been given a direction and it had been confirmed by the Minister and unless they could show that that direction was unlawful they could be compelled to carry it out.

Hon A.J.G. MacTIERNAN: I certainly understand the schema of what the Minister is saying. However, it could in fact lead to some considerable stalemates in the administration of public corporations.

There is also the issue of the unlawfulness. This should have been structured somewhat differently so that if a corporation wanted to continue, having in the first instance made the assertion that the initial direction was unlawful, then it should be required to take that issue before the court to get a declaration. As I read the legislation, it enables the corporation to continue to defy the Minister.

Hon Peter Foss interjected.

Hon A.J.G. MacTIERNAN: It does. There is no compulsion on them -

Hon Peter Foss: The only way that they can defy the Minister is if it is unlawful - not if they claim that it is unlawful.

Hon A.J.G. MacTIERNAN: There is no strict liability to be absolutely right. If one looks at any of the duties that we have declared in division 2, one sees that there is no duty to be right.

Hon Peter Foss: But there is a duty to carry out a lawful direction.

Hon A.J.G. MacTIERNAN: Yes, but there is a duty to act honestly, to exercise reasonable care and not to make improper use of information, and so on. There is no duty to be absolutely right. I can see a situation like this happening, for example - and I do not think this is gilding the lily - where a corporation is formed under a conservative Government and a left wing Government comes in with different social objectives. The management of that corporation could find itself very largely at odds with the direction in which the Government might wish to take it. This becomes the sort of practical circumstance around which one might find this sort of problem emerging. It seems to me that there is no breach of duty. If this corporation had been able to find a legal opinion of suitable standing that said that the direction that the Minister had made was unlawful then in persisting not to act on the Minister's direction it would not be in breach of any of those duties.

Hon Peter Foss: It is not a matter of the duties; the corporation is in breach of the law.

Hon A.J.G. MacTIERNAN: The corporation is in breach of the law?

Hon Peter Foss: Yes. The member is setting up a situation that will cause problems anyway. The fact is that there is either accommodation between the board and the Minister or there is not. If the Minister accepts that the board does not do anything, then he is silly. He has the capacity to compel it. First, he can compel it to carry out the direction that subclause (4) says is lawful or, secondly, he can go to the court to have the directors dismissed because they are wilfully refusing to carry out a lawful direction.

Hon A.J.G. MacTIERNAN: While I do not have any problem with a corporation's not acting upon an unlawful direction, it should be beholden upon the corporation, before it refuses to do that, to seek the declaration. I can see that we will not get that, but I want that recorded in *Hansard*.

Can the Minister explain in what court this relief would be sought and whether this court, in particular, would have powers to make such a declaration?

Hon PETER FOSS: The only court to which one can make an application is that which has jurisdiction. Generally speaking, the only court that has jurisdiction to make declarations of that nature is the Supreme Court. We can change the law. I think we have given the District Court the power to make declaratory relief. One considers the jurisdiction that has been conferred on what courts in order to give declaratory relief at the time. The only court with that power at the moment is the Supreme Court. I have a nagging suspicion that we gave some special powers for declaratory relief to the District Court. However, the obvious place to go is the Supreme Court.

Clause put and passed.

Clauses 17 to 21 put and passed.

Clause 22: Case may be withdrawn from jury -

Hon A.J.G. MacTIERNAN: I note that this clause involves actually removing a case from jury deliberation after it has started if a defence is raised that the person has acted honestly or ought to be fairly excused having regard to the circumstances in the case. That seems to be quite an innovation. Why does the Minister see it as appropriate to take that sort of defence out of the consideration of the jury, as I would imagine is normally the case?

Hon PETER FOSS: This is actually referring to civil liability. That may not be apparent because it makes reference to juries. The reason juries are referred to is that the lack of use of juries in Western Australia is a matter of practice not of statute law. That is the way in which the Corporations Law and the gas corporation law have also been written. As it happens the only cases we now have that go to jury as a right are defamation cases. The remainder could if the judges were so minded to change the practice.

Hon A.J.G. MacTiernan: Perhaps we should change the law.

Hon PETER FOSS: We have not done so at this stage. The member could very well be right: The whole Supreme Court legislation could do with a rewrite.

Clause put and passed.

Schedule 1 -

Hon KIM CHANCE: The list is relatively short, given the extensive list of quangos that exist in this jurisdiction. I looked for the corporations with which I am familiar and found the Western Australian Egg Marketing Board and the Western Australian Meat Marketing Corporation, but I could not find the Dairy Industry Authority of Western Australia. Is there a reason that some of the statutory marketing authorities have been included in the schedule, but the Dairy Industry Authority has not? In schedule 2, which refers to the Acts which will be amended by this Bill, there is no reference to the Dairy Industry Act.

Hon PETER FOSS: The corporations which have been included in schedule 1 are classified by Treasury as being government trading enterprises for the purposes of the competition policy.

Hon Kim Chance: That is very relevant to the Dairy Industry Authority, which is a corporation.

Hon PETER FOSS: I can give no reason why it has not been included. It could be added by regulation. If ever there was a GTE, it is the Dairy Industry Authority. There are three alternatives: Firstly, the Committee could amend the legislation now; secondly, the amendment could be made by regulation; or, thirdly, it could be amended in the other House.

Hon JOHN HALDEN: I wish to pursue this issue because I consider a number of corporations have been excluded from this schedule. In all fairness, the criterion which has been used is not very effective. The Attorney General will recall that the Minister for Transport, in his bunglings, repealed the Western Australian Coastal Shipping Commission because of the tendering procedure at the Fremantle Port Authority. The commission appears on this list, but, in reality, it does not exist.

Hon Peter Foss: It still exists in law.

Hon JOHN HALDEN: The Act has been repealed.

Hon Peter Foss: The legislation has not yet been completed.

Hon JOHN HALDEN: The Act had to be repealed. Perhaps the legislation has not been gazetted.

Hon Peter Foss: I do not think the Bill has been passed.

Hon JOHN HALDEN: I can assure the Attorney General it has. I read my speech the other day. It was shorter than some speeches I have made, but it was enlightening. The inclusion of the Western Australian Coastal Shipping Commission in this schedule creates a problem. Assuming that is the criterion provided by Treasury, there could be a problem with AlintaGas.

Hon Peter Foss: AlintaGas, Western Power and the Water Corporation are not included in this schedule because they each have their own Act.

Hon JOHN HALDEN: I understand there is a Harvey water board.

Hon Peter Foss: No. I am aware of only two water boards.

Hon JOHN HALDEN: I am referring to the Standing Committee on Government Agencies report of 1989 which lists that organisation as well as the Bunbury and Busselton Water Boards.

Hon Peter Foss: I am not aware of a Harvey water board and one certainly did not report to me when I was Minister for Water Resources.

Hon JOHN HALDEN: I do not know whether it still exists, but at the time of this report it existed.

I have just been informed that the Western Australian Coastal Shipping Commission Amendment and Repeal Bill is before the other Chamber. They certainly are a tardy lot!

Hon Peter Foss: They did not come back for two weeks to finish their business.

Hon JOHN HALDEN: That is an interesting concept, but it is an issue for another day. I will refer to other corporations which should be included, but have not been included for the reason given by the Attorney General. For example, there is the Joondalup development corporation.

Hon Peter Foss: That no longer exists. The Western Australian Land Authority has taken that over.

Hon Kim Chance: The development authorities have their own Acts; for example, the Pilbara development commission.

Hon Peter Foss: That has been replaced. They do not trade.

Hon JOHN HALDEN: The South West Development Commission does because it trades in land. It is currently selling land at Bunbury. It used to be the south west development authority, but it is now the South West Development Commission. The interpretation is that "corporation" means any body corporate established for a public purpose by written law. The South West Development Commission definitely has a corporate arm as well as

a marketing arm. The list in the standing committee's report indicates that some of them should fall within the ambit we are considering. I wonder about the hospital boards.

Hon Peter Foss: They are definitely not included. This is for the penalty provisions. Hospital boards are not caught by the Act at all.

Hon Kim Chance: Is that because their role is defined separately in the Health Act?

Hon Peter Foss: It is because they are a body corporate established for a public purpose under, but not by, written law.

Hon JOHN HALDEN: What about the Agriculture Protection Board?

Hon Peter Foss: That is a regulator.

Hon JOHN HALDEN: That is one of its functions.

Hon Peter Foss: It is not a trader.

Hon JOHN HALDEN: I accept that.

Hon Peter Foss: We may have to go over these corporations again, but they have been looked at.

Hon JOHN HALDEN: Another corporation which is not included in the schedule is the Perth Marketing Authority.

Hon Kim Chance: It has been included in the list.

Hon JOHN HALDEN: Another organisation is the Western Australian Government Railways Commission.

Hon Peter Foss: That is also included in the list.

Hon JOHN HALDEN: What about GoldCorp?

Hon Peter Foss: It has its own Act.

Hon JOHN HALDEN: I appreciate the Attorney General's clarification.

Hon Peter Foss: The South West Development Commission appears to be an organisation which has been excluded and I will have to check it. A fairly major change was made to all the development commissions.

Hon JOHN HALDEN: The South West Development Commission has commissioners and it is selling land. I am sure that members would want this schedule to encompass the right corporations. We must make sure that this is a comprehensive list which includes all the appropriate agencies.

Hon PETER FOSS: The Harvey water board is a bit of a puzzle. There was not one when I was the Minister for Water Resources. Certainly one never reported or appeared to do anything. It may have been abolished.

Hon John Halden: It changed its name to the Harvey Water Authority.

Hon PETER FOSS: Did it? That is even more interesting. It certainly kept a very low profile in the years that I was Minister for Water Resources. However, that does not mean that it does not still exist. I will look at that. The reason given for the Dairy Industry Authority not being included is that it was a regulator. However, I think a few of these are also regulators as well as being market acquirers. I think we should look at the Dairy Industry Authority to see whether that was an oversight. It has changed a little from simply acquiring and selling milk.

Hon Kim Chance: Not much. It could be arguable.

Hon PETER FOSS: I thought the acquisition all went to the major dairies now. I will ask the Treasury Department to have a look at that one, the Harvey water board to see if it still exists, and the SWDC. If it should be included we will include it. We can do that in three ways. We can wait and amend it here, we can amend it in the other House, or we can amend it by regulation. I am happy to say that if they should be in, we will put them in. There was no

intent to leave them out.

Schedule put and passed.

Schedule 2 -

Hon KIM CHANCE: I want to note as I did for schedule 1 that the Dairy Industry Act should be in that list for the same reasons as the authority.

Schedule put and passed.

Title put and passed.

Leave granted to proceed forthwith through remaining stages, and transmitted to the Assembly.

DOG AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the following resolution -

That in order that the Clerk of the Parliaments may be authorised to make the correction of the clerical error in the Dog Amendment Bill 1995 as recommended in his letter of 20 August 1996, in clause 8, page 10, line 12 the words "and in section 33G" be inserted after the word "dog."

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [8.55 pm]: I move -

That the resolution of the Legislative Assembly contained in message No 31 be agreed to.

There was an error in the Bill transmitted to the Legislative Council from the Assembly. Certain words were omitted and accordingly the Bill could not be certified as having the consent of both Houses of Parliament in the same form. I suggest that the Chamber agree with the Assembly forwarding its apology for getting it wrong and we go along with it.

Question put and passed.

CONSTITUTION ACTS AMENDMENT ACT

Assembly's Resolution

Message from the Assembly requesting concurrence in the following resolution now considered -

That this House -

- (a) acknowledges the work of the informal committee considering the implications of section 46 of the Constitution Acts Amendment Act 1899, and in particular the consideration it has given to specific amendments to deal with the problems of definition for the words "ordinary annual services of the Government" contained in subsection (6);
- (b) considers that any change to the Constitution should be carefully considered and that advice should be sought from expert sources both inside and outside government;
- (c) maintains the need to proceed with amendments which are agreed to as a result of the committee process and the receipt of expert advice;
- (d) believes the matter should be resolved before the next budget is presented; and
- (e) resolves that pending an outcome from that committee, the current Appropriation Bills should proceed in their present form.

Committee

Motion to Concur

The Chairman of Committees (Hon Barry House) in the Chair.

Hon N.F. MOORE: I move -

That the Legislative Council agrees with the resolution of the Legislative Assembly contained in Legislative Assembly Message No 27.

This is an ongoing problem with section 46 of the Constitutions Act Amendment Act which deals with the definition of “ordinary annual services of Government”. An informal committee of members of both Houses has tried to resolve the matter. There is goodwill on both sides in respect of this. An endeavour is being made as many have been made to resolve the issue and to come up with some definition or some process which will allow this issue to be avoided from year to year. It seems that some progress has been made, although not as quickly as some members would like. However, the Legislative Assembly has agreed with the recommendations of the informal committee; that is, that further work must be undertaken and legal advice obtained from inside and outside of government, and we need to resolve this matter before the next Budget is presented to Parliament. I am pleased to say that we have proceeded with the Appropriation Bills. I now ask members to agree to the resolution of the Legislative Assembly and allow the process to continue in the hope that this matter will be resolved before the next Budget arrives in this place.

Hon JOHN HALDEN: The Opposition is happy to support this resolution from the Assembly. The Leader of the House was correct when he said there is goodwill on the committee in attempting to resolve what is becoming a particularly difficult matter, although I have always proffered, quite modestly, that the Halden solution would fix it like that. However, I cannot get members opposite to agree with the Halden solution.

Hon N.F. Moore: What is that; that we do not have a Budget?

Hon JOHN HALDEN: No, that we do not confer upon ourselves in this Chamber the rights that we have currently. Once that is done, we will end the problem. Seemingly, simplicity is not something that we want. Some people want to retain some of our old powers to use at particular times when they want to frustrate governments, particularly Labor Governments. Be that as it may, goodwill exists. The committee was tardy in getting going, and since then there has been considerable difficulty in grappling with this concept of ordinary annual services of government.

Various propositions have been put forward, while maintaining the status quo of the power of this place, as to how that can be defined effectively to avoid the problem of tacking. We have not come to a resolution on that. That is not as a result of political lines; we cannot come to a logical solution that resolves the problem that has been created. We have now called a plethora of lawyers to give expert advice on this matter. That will no doubt occupy the committee for at least 12 months, and at some time in the future we might be a little closer to resolving the problems. Bringing lawyers in does not necessarily guarantee that, but hope springs eternal. It is a difficult problem to define. I maintain that the Halden proposition will resolve the matter quickly, and we will renegotiate and redebate it on many occasions on this committee.

A commitment was given with regard to the Budget and it has passed. It is appropriate that this committee not wait until next May to resolve this problem, otherwise we may find ourselves with some particularly difficult problems. With continued goodwill and vigorous debate on which way we should go, we may be able to resolve this problem one way or the other. I submit to the Minister for Finance that, once he has given due consideration to the Halden proposition, it will resolve his problems once and for all. On behalf of the Opposition I support the resolution from the Assembly.

Question put and passed.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.02 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Road Funding

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [9.03 pm]: I note the announcement today of the federal Budget. One of the significant areas to be cut is road funding. I understand it will be cut by some \$620m in the next four years. I look forward with some enthusiasm to scathing comments from the Minister for Transport about the evils of that centralist government in Canberra and the continuation of that taxpayer funded Fix the Roads Save Australia campaign directed squarely at the shoulders of his federal colleagues in Canberra. It will be a delightful sight for all of us to perceive the Minister for Transport waxing lyrical about the evils of his colleagues, the Liberal-National coalition in Canberra.

Question put and passed.

House adjourned at 9.04 pm

QUESTIONS ON NOTICE**WESTRAIL - CONTRACTS***18660 Construction of 66 Tank Containers*

43. Hon BOB THOMAS to the Minister for Transport:

With regard to Westrail contract 18660 for the construction of 66 tank containers –

- (1) Which firm was awarded the contract?
- (2) What was the cost of the contract?
- (3) Would this work have been carried out in-house in the past?

Hon E.J. CHARLTON replied:

(1)-(2) A contract was not awarded. The tender was cancelled.

(3) No.

SCHOOLS - PORT HEDLAND PRIMARY; COOKE POINT PRIMARY*Projected Life Span and Maintenance Costs; New School Plans*

267. Hon MARK NEVILL to the Minister for Employment and Training representing the Minister for Education:

- (1) What is the projected life span of the Port Hedland Primary School before redevelopment is needed?
- (2) What are the projected maintenance costs over the next five years of the Port Hedland Primary School?
- (3) What facilities does the Government consider the Port Hedland Primary School lack?
- (4) What is the projected life span of the Cooke Point Primary School?
- (5) What are the projected maintenance costs over the next five years of the Cooke Point Primary School?
- (6) What facilities does the Government consider the Cooke Point Primary School lack?
- (7) Has the Government considered closing both the Port Hedland Primary School and the Cooke Point Primary School and replace them with a new combined primary school?
- (8) Has land been set aside for a new school in the Port Hedland area?
- (9) Would the cost of building a new school save the taxpayer funds in the longer term?

Hon N.F. MOORE replied:-

I have been advised by the Minister for Education in the following terms:

- (1) According to a report prepared by the consultants Astron Engineering Pty Ltd, Port Hedland Primary School has a projected life expectancy of 5 years.
- (2) \$775 200 over 3 years.
- (3) Whilst there are a number of outstanding maintenance items requiring attention, the extent of classroom accommodation at the school is more than adequate for the current level of student enrolment.

- (4) According to a report prepared by the consultant Astron Engineering Pty Ltd, subject to repairs being undertaken, Cooke Point Primary School has a life expectancy of up to 30 years.
- (5) \$252 100 over 3 years.
- (6) Cooke Point Primary School is scheduled for an administration upgrade. The commencement of the project is being delayed pending the outcome of the review mentioned below.
- (7) A review initiated by the two school communities addressing this issue has been completed and forwarded to the Minister for Education for his consideration.
- (8) No. However, the Shire of Port Hedland has indicated that "Gymkhana Reserve" may be available for use as a school site. Consideration is also being given to building a new school on the oval at Cooke Point Primary School.
- (9) No. The cost of a new school on "Gymkhana Reserve" would be between \$8 million and \$10 million depending on the design to overcome the difficult site conditions. Such a strategy is unlikely to save the taxpayer funds in the long term.

FUEL LEVY - ALLOCATIONS TO ACCESS ROADS TO REMOTE ABORIGINAL COMMUNITIES

268. Hon MARK NEVILL to the Minister for Transport:

- (1) What percentage of the 4c per litre fuel levy has been allocated to access roads to remote Aboriginal communities for the 1995-96 financial year?
- (2) To which access roads and what funds have been allocated in each case?

Hon E.J. CHARLTON replied:

- (1) A total of 0.56 per cent (\$400 000).
- (2) The roads concerned are -

| | |
|-------------------------|----------|
| Trans Access Road | \$6 000 |
| Mulga Queen Road | \$33 000 |
| Heather Highway | \$6 000 |
| Jamerson Wanam Road | \$10 000 |
| Gunbarrel Highway | \$50 000 |
| Myroodah-Luluigui Road | \$70 000 |
| Gordon Downs Road | \$45 000 |
| Tanami Road | \$30 000 |
| Billinnooka Access Road | \$60 000 |
| Yandeyarra Road | \$90 000 |

Substantial funding in remote areas in the State has been a direct benefit to Aboriginal communities across the State. The member should also be aware of the proposal to increase the allocation to Aboriginal access roads contained in a submission to the Aboriginal and Torres Strait Islander Commission. This initiative with state, ATSIC and federal government joint funding will provide additional funds for job training, machinery care and maintenance. This Government is committed to this proposal and will continue to progress it with other agencies.

WESTERN POWER - EUCLA RESIDENTS, POWER SUPPLY

278. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Energy:

- (1) What steps are being taken by Western Power to supply power to the residents of Eucla?
- (2) Is it the intention of the Minister for Energy to visit Eucla to discuss with residents the Government's policy with regard to the supply of power?
- (3) If so, when is the visit planned.

Hon N.F. MOORE replied:-

I am advised by the Minister for Energy in the following terms:

- (1) Eucla is not within Western Power's service area and Western Power has no plans to assume a role in Eucla since this would add further to its \$40 million losses for regional power supply. Private arrangements are presently in place.
- (2)&(3) Not at present but it is hoped that a visit will be possible later in the year.

WESTRAIL - CLYDE LOCOMOTIVES

1339. Hon BOB THOMAS to the Minister for Transport:

Will the proposed new Clyde locomotives be suitable for use on the Gnowangerup and Nyabing branches of Westrail's network?

Hon E.J. CHARLTON replied:

No.

ELLIOTT, RICHARD - DOVER CONSULTANTS, ENGAGED BY GOVERNMENT

Declaration of Private Sector Engagements

389. Hon JOHN HALDEN to the Leader of the House representing the Premier:

With reference to the engagement of Richard Elliott from Dover Consultants, I ask the Premier -

- (1) Has Dover Consultants declared to the Government any private sector engagements entered into by Dover Consultants at the same time as it is engaged by the Government?
- (2) If so -
 - (a) to whom is such a declaration made; and
 - (b) by what mechanism is such a declaration made, and specifically, is it in the form of a written, formal notice?
- (3) If a written, formal declaration is not made, how can the Government be assured that there are no conflicts of interest arising from the consultancy?

Hon N.F. MOORE replied:

- (1) Yes.
- (2)
 - (a) The Director General of the Ministry of Premier and Cabinet or the CEO of the Premier's Department.
 - (b) Verbally.
- (3) Mr Elliott's consulting contract is a standard government consulting contract which does not call for written, formal declarations, but is specific about notifications of conflicts of interest.

SCHOOLS - COVERED ASSEMBLY AREAS

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

- (1) What funds have been allocated in the 1996-97 budget for the covered assembly area program?
- (2) Which schools will have covered assembly areas constructed in 1996-97?
- (3) Which schools in the Mining and Pastoral Region will still be without covered assembly areas at the end

of the 1996-97 program?

Hon N.F. MOORE replied:

I have been advised by the Minister for Education in the following terms -

- (1) An amount of \$4.179m has been allocated for the provision of covered assembly areas in the 1996-97 capital works program.
- (2)-(3) An announcement regarding those schools which will be provided with a covered assembly area during 1996-97 will be made later this year.

POLLS - 5 MAY ON SAFETY IN HOMES

465. Hon JOHN HALDEN to the Leader of the House representing the Premier:

- (1) Did the Office of Women's Interests, or any other government agency, carry out polling on 5 May 1996 asking people whether they felt safe in their homes?
- (2) What was the cost of the polling and who initiated it?

Hon N.F. MOORE replied:

- (1)-(2) The Office of Women's Interests did not carry out polling on 5 May 1996. I am not aware of any government agency carrying out polling on the date mentioned. If the member has any additional information, he should provide it to me and I will investigate the matter further.

EDUCATION DEPARTMENT - SCHOOL LAND OR CAPITAL ASSETS SALES

469. Hon JOHN HALDEN to the Leader of the House representing the Minister for Education:

- (1) Is it this government's policy to fund capital works and purchase school equipment by encouraging schools to sell their land?
- (2) If yes, what criteria does the Education Department apply to decide which schools it funds and which schools are expected to fund themselves?
- (3) Can the Minister for Education inform the House which schools are currently considering selling land or capital assets?

Hon N.F. MOORE replied:-

I thank the Hon Member for some notice of this question. I have been advised by the Minister for Education in the following terms:

- (1) Government policy is to utilise proceeds of the sale of surplus assets as a possible contributory component in funding of capital improvements at schools.
- (2) The Education Department's capital works program operates independently of the school excision program. Priorities for all projects are determined on a statewide needs basis.
- (3) The following schools have current approval to proceed with development of the proposal for excision and disposal of surplus land:

Bramfield Park Primary School
Camberwarra Primary School
Cyril Jackson Senior Campus
Denmark Agricultural College
Duncraig Primary School
Gibbs Street Primary School
Kewdale Senior High School

North Lake Senior Campus
 Scarborough District Education Office (former)
 Yokine Primary School

The following projects have been completed:

Busselton Primary School
 Cloverdale Primary School
 Dianella Primary School
 Weld Square Primary School

A number of other schools have expressed interest in participating.

EDUCATION DEPARTMENT - SCHOOL FUNDING EXPENDITURES PER FTE OF STUDENTS BY LEVEL OF SCHOOLING

474. Hon JOHN HALDEN to the Leader of the House representing the Minister for Education:

What were the recurrent school related funding expenditures per FTE of government school students by level of schooling from 1993-94 to 1995-96 inclusive?

Hon N.F. MOORE replied:-

I have been advised by the Minister for Education in the following terms:

| | 1993-94 | 1994-95 |
|------------------------|---------|---------|
| | \$ | \$ |
| Preprimary and Primary | 2, 696 | 2, 612 |
| Secondary | 4, 854 | 4, 819 |
| Education Support | 13, 694 | 13, 493 |

The per capita expenditure input for 1993-94 is greater than for the 1994-95 financial year due to there being an additional pay period in 1993-94. That is, twenty seven pay days fell within the year as opposed to twenty six in 1994-95. This resulted in higher direct expenditure in that year. Actual expenditure details for 1995-96 are not yet available but will be produced shortly after the end of the financial year as part of the Education Department's 1995-96 annual report. [See also tabled paper No 520.]

NEWSPAPERS - PROUDLY WESTERN AUSTRALIA PROPOSAL

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

- (1) Has the Government approved the launch of a newspaper called "Proudly Western Australian" or a newspaper of any other name?
- (2) How many copies of this newspaper will be published?
- (3) How many editions of the newspaper are proposed?
- (4) How will it be distributed?
- (5) Will it accept advertising or sponsorship, and, if so, who will handle this aspect?
- (6) Who initiated the newspaper project?
- (7) Did the Premier approve this project?
- (8) Have chief executive officers been advised of the publications and asked to contribute?
- (9) Have journalists outside of government been approached and asked to contribute to the newspaper, and, if so, who are they and on what basis will they be engaged to contribute?

- (10) Has a company called O'Keefe Media been approached, and, if so, why?
- (11) What role has Mr Darcy Farrell had in reference to this newspaper project?
- (12) Is this proposal to establish a newspaper another example of the misuse of Western Australian's taxpayer funds to pump out political propaganda for the Court Government in the lead up to the next state elections?

Hon N.F. MOORE replied:-

- (1)-(7) The Government did not need to approve the launch of "Proudly Western Australian" as it is a commercial undertaking by private enterprise. The member's questions would be best directed to O'Keefe Media Services.
- (8) Some chief executive officers would be aware the publication is being printed and any decision by them to advertise would be a matter for their judgment.
- (9)-(10) The Government did not need to approve the launch of "Proudly Western Australian" as it is a commercial undertaking by private enterprise. The member's questions would be best directed to O'Keefe Media Services.
- (11) He was aware of the publication.
- (12) Not applicable.

SOUTH WEST DEVELOPMENT COMMISSION - CHAMBERS OF COMMERCE IN SHIRES OF
BRIDGETOWN, GREENBUSHES AND PEMBERTON, FUNDING

478. Hon JOHN HALDEN to the Leader of the House representing the Minister for Commerce and Trade:

With regard to the creation of a Chamber of Commerce in the Shires of Bridgetown-Greenbushes and Pemberton -

- (1) How much money was provided by the South West Development Commission to the Chamber of Commerce and Industry to help set up these two Chambers of Commerce?
- (2) For what purpose was this money provided?
- (3) Why was it necessary for the South West Development Commission to assist the Chamber of Commerce and Industry?
- (4) Is it normal practice for state government funds to be applied for the pursuit of interests of employer organisations?
- (5) Does the South West Development Commission provide similar funding to employee organisations?

Hon N.F. MOORE replied:

The Minister for Commerce and Trade has provided the following reply -

- (1) No money has been provided to the Chamber of Commerce and Industry for this or any other purpose.
- (2)-(5) Not applicable.

SCHOOLS - KIMBERLEY REGION, YEAR 11 AND 12 STUDENTS

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

- (1) What total number of year 11 and 12 students are there in the schools of the Kimberley region?
- (2) How many of these are Aboriginal students?

Hon N.F. MOORE replied:

I have been advised by the Minister for Education in the following terms -

- (1) There are 181 year 11 and 83 year 12 students in schools in the Kimberley region.
- (2) There are 106 year 11 and 38 year 12 Aboriginal students in schools in the Kimberley region.

EDUCATION DEPARTMENT - MINING AND PASTORAL REGION, PRIMARY AGE SCHOOL STUDENTS, LOCATIONS WITHOUT REASONABLE ACCESS TO PRIMARY SCHOOLS

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

- (1) What locations in the Mining and Pastoral Region have been identified by the Education Department as having significant numbers of school age children without reasonable access to primary schools?
- (2) How many primary age school students are at each of these locations?

Hon N.F. MOORE replied:-

I have been advised by the Minister for Education in the following terms:

- (1)-(2) There are no current unmet applications for the provision of education programs in remote communities. When information on numbers of school aged children in any centre becomes available to the Education Department, assessments of the long term stability of the community, its infrastructure and its objectives, are made before the provision of education programs are considered.

SCHOOLS - COVERED ASSEMBLY AREAS

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

In relation to the answer to question on notice 430 of 1996, when will the Minister for Education release details of the list of the schools which will have covered assembly areas constructed under this \$4.179m program allocation?

Hon N.F. MOORE replied:-

I have been advised by the Minister for Education in the following terms -

Covered assembly areas will be provided at the following schools during 1996-97:-

Bellevue Primary School
 Beverley District High School
 Boulder Primary School (upgrade)
 Brookton District High School
 Bunbury Primary School (extension)
 Cunderdin District High School
 Dianella Heights Primary School
 Gnowangerup District High School
 Guildford Primary School
 Helena Valley Primary School
 Kensington Primary School
 Kewdale Primary School
 Koonawarra Primary School
 Kyilla Primary School
 Lake Grace District High School
 Maddington Primary School
 Meekatharra District High School
 Mosman Park Primary School
 Newborough Primary School

South Merredin Primary School
Sutherland Primary School
Wembley Downs Primary School
Woodlands Primary School

HOMESWEST - NEW HOMES CONSTRUCTION, WILLAGEE, COOLBELLUP, HILTON, HAMILTON HILL

526. Hon CHERYL DAVENPORT to the Minister for Finance representing the Minister for Lands:

- (1) Of the \$36m public housing plan announced recently, how many new homes or units will be constructed in the 1996-97 budget year in the suburbs of:-
 - (a) Willagee;
 - (b) Coolbellup;
 - (c) Hilton; and
 - (d) Hamilton Hill?
- (2) If dwellings are to be built in those suburbs would the Minister for Housing estimate the approximate commencement and completion dates over the entire period the \$36m plan is to embrace?

Hon MAX EVANS replied:-

The Minister for Lands has provided the following reply -

- (1)
 - (a) 14 family units
 - (b) Nil
 - (c) 16 family units
 - (d) 31 seniors-family-singles unit (including 6 Wisechoice units)
- (2)

Willagee
9 units August 1996 to March 1997
1 unit October 1996 to April 1997
4 units November 1996 to June 1997

Coolbellup
Nil

Hilton
3 units September 1996 to March 1997
4 units November 1996 to May-June 1997
9 units December 1996 to June 1997

Hamilton Hill
8 units August 1996 to April 1997
8 units December 1996 to June 1997
6 units March 1997 to October 1997
9 units June 1997 to December 1997

The foregoing time frames are approximations based on current assessment of project activities. There should be some allowance given for unforeseen delays.

MESOTHELIOMA - CASES

527. Hon MARK NEVILL to the Minister for Finance representing the Minister for Labour Relations:

- (1) What was the incidence of mesothelioma in each year from -
 - (a) 1980 to 1995; and

(b) the projection - estimation of annual figures to the year 2020?

(2) What was the source of these estimates and what estimates were made in years prior to 1996?

Hon MAX EVANS replied:-

The Minister for Labour Relations has provided the following reply:

(1) (a) Data on the incidence of mesothelioma is available for the period 1986 to 1994:-

| Year- | Number of Cases- | | Rate Per Million- | |
|-------|------------------|---------|-------------------|---------|
| | Male- | Female- | Male- | Female- |
| 1986 | 30 | 3 | 61.0 | 6.1 |
| 1987 | 27 | 3 | 53.0 | 5.9 |
| 1988 | 30 | 6 | 56.9 | 11.4 |
| 1989 | 35 | 5 | 63.9 | 9.2 |
| 1990 | 37 | 5 | 67.1 | 9.0 |
| 1991 | 43 | 3 | 76.6 | 5.3 |
| 1992 | 43 | 6 | 75.2 | 10.4 |
| 1993 | 55 | 13 | 94.6 | 22.1 |
| 1994 | 50 | 4 | 84.4 | 6.7 |

The source of this data is the Australian Mesothelioma Register Report for the years 1986 to 1996 published by the National Institute of Occupational Health and Safety.

- (1) (b) The National Institute of Occupational Health and Safety does not publish projections or estimates of the annual incidence of mesothelioma. Consequently there are no available projections of the annual incidence of mesothelioma in Western Australia. There have been research studies on the projected incidence of cases of mesothelioma among former workers at the Wittenoom asbestos mine. de Klerk et al (Med J Aust 1989; 151:616-620) predicted a total of 692 cases of mesothelioma among former Wittenoom workers over the period 1987 to 2020. Berry (BJIM 1991; 48:793-802) predicted a total of between 250 and 680 cases of mesothelioma among former Wittenoom workers over the period 1987 to 2020.
- (2) de Klerk H Nicholas, Bruce K Armstrong, A William Musk and Micheal S T Hob, Predictions of future cases of asbestos-related disease among former miners and millers of crocidolite in Western Australia, Med J Aust 1989; 151:616-620. Berry G, Prediction of mesothelioma, lung cancer, and asbestosis in former Wittenoom asbestos workers, BJIM 1991; 48:793-802.

EDUCATION DEPARTMENT - MINISTERIAL REVIEW OF SCHOOLING IN RURAL WESTERN AUSTRALIA

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

- (1) Which recommendations of the Schooling in Rural Western Australia Report - Ministerial Review of Schooling in Rural Western Australia (1994) have been -
- (a) implemented; and
- (b) rejected,

by the State Government?

- (2) What further consideration is being given to any other recommendations of the review?

Hon N.F. MOORE replied:-

- (1) (a) The following 22 recommendations have been implemented either in full or in a phased process: 4.2, 4.3, 4.4, 4.5, 4.6, 5.1, 5.3, 5.6, 5.7, 5.8, 5.9, 5.11, 6.2, 6.4, 6.7, 6.8, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7.
- (b) Recommendation 7.1 has been rejected following discussions with the South Australian and Northern Territories education systems.
- (2) The following five recommendations are receiving further consideration: 3.1, 6.3, 6.5, 6.6, 6.9.

SCHOOLS - KIMBERLEY REGION

Specialist Music Teachers

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

- (1) How many specialist music teachers are there in -
- (a) the government schools of the Kimberley region; and
- (b) the non-government schools of the Kimberley region?
- (2) At what schools are they located?

Hon N.F. MOORE replied:-

- (1) (a) The Education Department of Western Australia currently employs three specialist music teachers in the Kimberley region.
- (b) There are currently 0.20 and 0.25 FTE specialist music teachers in non-government schools of the Kimberley region.
- (2) Music teachers are located in the following schools:

| | |
|--------------------------------|----------|
| Government Schools - | |
| Cable Beach Primary School | 1.0 FTE |
| Kununurra District High School | 1.0 FTE |
| Derby District High School | 0.8 FTE |
| Non-Government Schools - | |
| St Joseph's - Kununurra | 0.20 FTE |
| St Mary's - Broome | 0.25 FTE |

SCHOOLS - COVERED ASSEMBLY AREAS

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

What schools are to receive a covered assembly area from the 1996-97 state Budget?

Hon N.F. MOORE replied:-

Covered assembly areas will be provided at the following schools during 1996-97:-

Bellevue Primary School
 Beverley District High School
 Boulder Primary School (upgrade)
 Brookton District High School

Bunbury Primary School (extension)
 Cunderdin District High School
 Dianella Heights Primary School
 Gnowangerup District High School
 Guildford Primary School
 Helena Valley Primary School
 Kensington Primary School
 Kewdale Primary School
 Koonawarra Primary School
 Kyilla Primary School
 Lake Grace District High School
 Maddington Primary School
 Meekatharra District High School
 Mosman Park Primary School
 Newborough Primary School
 South Merredin Primary School
 Sutherland Primary School
 Wembley Downs Primary School
 Woodlands Primary School

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - UNIVERSITIES, FUNDING

University of Western Australia, Agriculture Faculty, Natural Resource Management Funding

539. Hon J.A. SCOTT to the Minister for the Environment:

- (1) Does the Department of Conservation and Land Management provide funds to natural resource management within the Faculty of Agriculture at the University of Western Australia?
- (2) If yes -
 - (a) on what basis are the funds provided;
 - (b) for what purpose are they provided;
 - (c) from what funding source do they come;
 - (d) since when were they provided;
 - (e) for how much longer will they be provided;
 - (f) how much is provided each year;
 - (g) if for scholarships, how many students receive them; and
 - (h) what conditions are attached?
- (3) Does CALM provide funds to any other -
 - (a) department at the University of Western Australia; and
 - (b) university?
- (4) If yes -
 - (a) to which departments at which universities;
 - (b) on what basis are they provided;
 - (c) for what purpose are they provided;
 - (d) from what funding source do they come;
 - (e) since when were they provided;
 - (f) for how much longer will they be provided;
 - (g) how much is provided each year;
 - (h) if for scholarships, how many students receive them; and
 - (i) what conditions are attached?

Hon PETER FOSS replied:-

- (1) Yes.

- (2) (a-b) Scholarships for post graduate students.
 (c) Recurrent account in the Conservation and Land Management Fund.
 (d) Since the commencement of the 1996 academic year.
 (e) Three years, depending on progress of each student.
 (f) \$20,000 per student for up to three students.
 (g) Two at present.
 (h) Satisfactory progress of the student.
- (3) Yes.
- (4) The accounts payable system for the Department of Conservation and Land Management records many payments to universities for the 1995-96 financial year, including -
- 26 payments to Murdoch University
 - 25 payments to Curtin University
 - 9 payments to Edith Cowan University
 - 37 payments to University of Western Australia
 - 2 payments to University of Notre Dame
 - 2 payments to Australian National University
 - 1 payment to Monash University
 - 1 payment to Deakin University
 - 1 payment to Griffith University
 - 1 payment to La Trobe University
 - 1 payment to University of Adelaide

These funds were used to obtain a wide range of goods and services from these universities, including purchase of books, videos, library services and training materials, attendance by CALM staff at conferences and training courses held by the universities, provision of advice, laboratory analyses and research work, a prize for the best student in Environmental Science at Murdoch University, maintenance of Matilda Bay Reserve by the University of Western Australia and rental of office accommodation from the University of Notre Dame. Further details can be provided on any of the 106 payments made to universities if required. No other scholarships are provide through universities other than scholarships noted in answer (2).

DISABLED - ADVOCACY SERVICES

547. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Disability Services:
- (1) Is the Minister for Disability Services aware of the Federal Government's plans to cut funding for advocacy services to the disabled, although these services are already under resourced?
- (2) Will the Minister give an assurance that the State will ensure that such advocacy services are at least maintained at current levels?

Hon MAX EVANS replied:

- (1) No.
- (2) The State is committed to protecting the rights of people with disabilities through advocacy. There are no plans to cut state funding for advocacy services.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF - AIR QUALITY, KALGOORLIE, KWINANA, MONITORING SO², NO² LEVELS

548. Hon J.A. SCOTT to the Minister for the Environment:
- (1) How is the Department of Environmental Protection monitoring or receiving SO² data in the Kalgoorlie and Kwinana regions?
- (2) Is monitoring occurring 24 hours per day and who is carrying out the monitoring?
- (3) If self monitoring is carried out by polluting organisations, what checks does the DEP have in place to ensure the accuracy of the pollution levels?

- (4) Is any monitoring now taking place in both these regions for NO² levels as well?

Hon PETER FOSS replied:-

- (1) The Department of Environmental Protection does not have any sulphur dioxide monitoring stations in the Kalgoorlie region but receives data every month from monitoring stations operated by industries in the region under conditions of licence. The Department of Environmental Protection operates three sulphur dioxide monitoring stations in the Kwinana region and receives data from a further three stations operated by Kwinana industries.
- (2) Monitoring is occurring 24 hours per day. The Kalgoorlie monitoring is conducted on behalf of Kalgoorlie industries by Kalgoorlie Consolidated Gold Mines. The industry monitoring program at Kwinana is conducted by consultants employed by the Kwinana Industries Council.
- (3) The Department of Environmental Protection audits the accuracy of monitors operated by industry groups, using the department's calibration equipment.
- (4) Nitrogen dioxide is monitored at Kwinana by the Department of Environmental Protection but is not monitored at Kalgoorlie.

PRISONS - GOLDFIELDS REGIONAL

Prisoners, Numbers

552. Hon MARK NEVILL to the Minister assisting the Minister for Justice:

- (1) How many prisoners is the Goldfields Regional Prison designed to accommodate?
- (2) What was the number of prisoners at the Goldfields Regional Prison in -
 - (a) 30 June 1994;
 - (b) 30 June 1995; and
 - (c) 30 June 1996?
- (3) What is the most recent count of prisoners at the prison and on what date was the count completed?

Hon PETER FOSS replied:

- (1) 104.
- (2)
 - (a) 101
 - (b) 91
 - (c) 114.
- (3) 119 on 5 July 1996.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF - GOLD TAILINGS SPILL INQUIRY

557. Hon J.A. SCOTT to the Minister for the Environment:

In reference to a news release dated Wednesday, 29 May 1996 titled "DEP Investigating Gold Tailings Spill" -

- (1) In relation to this incident, who, or which companies, caused this spill and was it pollution as defined under the Environmental Protection Authority Act 1986?
- (2) If yes, will the Department of Environmental Protection prosecute the perpetrators of this pollution?

- (3) If no, why not?
- (4) If no, can the Minister explain why the perpetrators who caused the spill did not cause pollution as defined under the Environmental Protection Authority Act 1986?
- (5) Over what area, in hectares, did the tailings dam spillage cause contamination and damage to the environment?
- (6) What is the penalty for causing pollution under the Environmental Protection Authority Act 1986?

Hon PETER FOSS replied:-

- (1) The tailings spill of 23 May 1996 came from the "C" cell of KCGM Pty Ltd's Fimiston II tailings storage facility. The Kalgoorlie office of the Department of Environmental Protection is still investigating the circumstances of the spill.
- (2) The DEP will advise me whether the spill in the Department's opinion constituted pollution, as defined by the Environmental Protection Act 1986, when the investigations are complete. At that time the DEP will also advise me on whether it recommends prosecution.
- (3)-(4) Not applicable until DEP investigations are completed.
- (5) The total area affected by the spill is about one hectare, of which approximately 0.2 ha is woodland in the Australian National Rail reserve.
- (6) The maximum penalty for a company for causing pollution is \$20,000; however, the actual penalty is determined by a magistrate in court proceedings.

MINING INDUSTRY - LICENCE No 6410

Recommissioning Status Report Mt Percy No 1 Tailings Dam Kalgoorlie

558. Hon J.A. SCOTT to the Minister for the Environment:

In reference to licence No 6410, condition G2, which states "The works shall be managed and operated in accordance with the document entitled "Recommissioning Status Report Mount Percy #1 Tailings Dam Kalgoorlie, Western Australia" authored by Golder Associates Pty Ltd dated October 1993, except in circumstance where these details and commitments are inconsistent with any other condition of this licence, the latter shall prevail", and I ask -

- (1) Will the Minister supply me with a full and complete copy of the above referred document "Recommissioning Status Report Mount Percy #1 Tailings Dam Western Australia"?
- (2) If no, why not?

Hon PETER FOSS replied:-

- (1) Yes. See tabled paper
- (2) Not applicable.

MINING INDUSTRY - KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD

Fimiston II Tailings Dam; Cyanide in Ground Water

559. Hon J.A. SCOTT to the Minister for the Environment:

In reference to question 1321 of 1995 -

- (1) Does cyanide in the ground water represent a danger to both people and the environment?
- (2) If no, why not?

Hon PETER FOSS replied:-

- (1) Cyanide is considered to represent a danger to people only when the level exceeds 70 micrograms-litre in drinking water. There is no set level for cyanide in ground water to satisfy environmental concerns, although a level of 5 micrograms-litre has been set for protection of surface water ecosystems.
- (2) However, while cyanide is stable in groundwater, once it is exposed to sunlight and air in surface seepage, it rapidly breaks down to non-toxic compounds which can be utilised by the environment as a fertiliser.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF - FIMISTON I TAILINGS DAM

560. Hon J.A. SCOTT to the Minister for the Environment:

- (1) To what height, in metres, will Fimiston I tailings dam be constructed?
- (2) Can the Minister provide any estimates of the amount of leakage and seepage of pollutants into the ground water from the Fimiston I tailings dam?
- (3) If yes, how were the estimates of the leakage and seepage of pollutants arrived at, and over what period is-was that assessment made?
- (4) If no, why not?
- (5) What is the estimated evaporation loss in litres and tonnes per day and per year from the dam?

Hon PETER FOSS replied:-

- (1) The approved projected final height of Fimiston I tailings storage is 30 metres.
- (2) No.
- (3) Not applicable.
- (4) Seepage from a tailings storage will depend on the materials used in its construction, the construction design and ongoing operational practices in managing tailings disposal. Once seepage is identified from monitoring bores, the usual response is to initiate recovery of the affected ground water and investigate the cause of the seepage to allow a repair program, or changes in work procedures to be implemented.
- (5) The volume lost to evaporation could be as high as 7 million litres per day. The above value is only an estimate and does not take account of the reuse of water in the process plant or for other purposes, which act to reduce the area available for evaporative loss. The calculation is based on annual average pan evaporation rate in Kalgoorlie of 7.3 millimetres per day, and estimated area of the Fimiston I tailings storage of 990 000 square metres.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF - FIMISTON II TAILINGS DAM

561. Hon J.A. SCOTT to the Minister for the Environment:

- (1) To what height, in metres, will the Department of Environmental Protection or the Minister allow the Fimiston II tailings dam to be constructed?
- (2) Can the department estimate and state what amount of leakage and seepage of pollutants into the ground water from the dam will be?
- (3) If yes, how was the estimates arrived at?
- (4) If no, why not?
- (5) What is the estimated evaporation loss in litres and tonnes per day and per year from the dam and its extensions?

Hon PETER FOSS replied:-

- (1) The approved projected final height of Fimiston II tailings storage is 30 metres.
- (2) No.
- (3) Not applicable.
- (4) Seepage from a tailings storage will depend on the materials used in its construction, the construction design and ongoing operational practices in managing tailings disposal. Once seepage is identified from monitoring bores, the usual response is to initiate recovery of the affected ground water and investigate the cause of the seepage to allow a repair program, or changes in work procedures to be implemented.
- (5) The volume lost to evaporation could be as high as 18 million litres per day. The above value is only an estimate and does not take account of the reuse of water in the process plant or for other purposes, which act to reduce the area available for evaporative loss. The calculation is based on annual average pan evaporation rate in Kalgoorlie of 7.3 millimetres per day, and estimated area of the Fimiston II tailings storage of 2 475 000 square metres.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF - SALINE WATER PIPE SPILLAGE,
KALGOORLIE, INQUIRY

562 Hon J.A. SCOTT to the Minister for the Environment:

In reference to a recent saline water pipe spillage in close proximity to the "Two-up School" in Kalgoorlie, caused by the Gidgi roaster pipe -

- (1) Has the Department of Environmental Protection investigated this matter?
- (2) If no, will the DEP immediately investigate the spillage?
- (3) Who caused this pollution?
- (4) Was it pollution as defined under the Environmental Protection Authority Act 1986?
- (5) If yes, will the Minister prosecute the perpetrator for causing this pollution?
- (6) If no, why not?
- (7) What is the penalty under the Act for causing pollution?
- (8) How many hectares did the saline water spillage affect?

Hon PETER FOSS replied:-

- (1) Yes.
- (2) Not applicable.
- (3) KCGM Pty Ltd.
- (4) I am advised that the department considered it pollution within the meaning defined under the Environmental Protection Act 1986.
- (5) No.
- (6) The spillage to the environment occurred as a result of a saltwater pipeline failure in a line owned by KCGM. The leak was originally contained in a collection sump designed for the purpose. Heavy rain (in excess of 27mm) during the night after the leak caused the sump to overflow, carrying salt water diluted by the rain into adjacent woodland.

I am satisfied that KCGM has in place appropriate structures and management procedures to control such occurrences except for such unusual circumstances as occurred on this occasion. KCGM could not reasonably be expected to have acted more quickly to remove the water which leaked from the pipe. I am advised by the DEP that, in this instance, under section 74(1)(9) of the Environmental Protection Act 1986, the company would be likely to have a valid defence to proceedings.
- (7) The maximum penalty for a company for causing pollution as such is \$20 000; however the actual penalty is determined by a magistrate in court proceedings.
- (8) Less than 0.5ha.

LAND - SUSSEX LOCATION 1362, CLEARANCE PREVENTION

563. Hon GRAHAM EDWARDS to the Minister for the Environment:

- (1) What action is the Minister taking to prevent the clearance of 125 hectares of Sussex Location 1362, given that the proposed clearing is likely to severely impact on the adjoining national park by -
 - (a) introduction of weeds and exotic plants;
 - (b) possible destabilisation of soils;
 - (c) introduction of dieback;
 - (d) loss of fauna habitat; and
 - (e) fragmentation of the integrity of natural vegetation?
- (2) If the Minister is not taking action, why not?

Hon PETER FOSS replied:-

- (1)-(2) The Commissioner for Soil and Land Conservation referred the notice of intention to clear Sussex Location 1362 to a number of government agencies including the Department of Conservation and Land Management, the Department of Environmental Protection and the Shire of Augusta Margaret River for comment. The Department of Conservation and Land Management advised the commissioner of its concern about the consequential introduction of weeds and dieback, loss of natural habitat, potential destabilisation of soils and changes to landscape character. CALM also advised of the need for a survey for threatened flora. The notice of intention to clear Sussex Location 1362 is still going through the process of assessment by the Commissioner for Soil and Land Conservation, and has been referred to the EPA for assessment.

LAND - SUSSEX LOCATION 1362, CLEARANCE PREVENTION

563. Hon GRAHAM EDWARDS to the Leader of the House representing the Minister for Lands:

- (1) What action is the Minister for Lands taking to prevent the clearance of 125 hectares of Sussex Location 1362 given that the proposed clearing will impact on the land by
 - (a) increased exposure to winds resulting in probably border-zone vegetation damage;
 - (b) degradation of the retained vegetation;
 - (c) possible water and wind erosion; and
 - (d) the poor grazing potential for the land, restricted due to the poor moisture availability, low fertility and poor water supplies?
- (2) If the Minister is not taking action, why not?

Hon N.F. MOORE replied:-

The Minister for Lands has provided the following reply:

- (1)-(2) Sussex Location 1362 is freehold land and as Minister for Lands I have no jurisdiction over any clearing activities. This question would be more appropriately addressed to the Minister for Primary Industry.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF - LETTER L64-80, TAILINGS DAM,
KALGOORLIE, SEEPAGE, LICENCE AMENDMENT

569. Hon J.A. SCOTT to the Minister for the Environment:

In reference to a letter dated 21 November 1995, reference L 64/80 which states "Given advice that seepage is occurring from the tailings dam, please provide a plan of the site (A3 size on a scale of 1:5000 or similar) showing mines areas, tailings dam structures (including interceptor trenches, diversion drains etc), process facilities and monitoring-recovery bore locations. Information on the existing monitoring programme for the bores should be provided to allow the Department to subsequently amend your licence" -

- (1) Will the Minister or the Department of Environmental Protection supply me with a complete scaled map with all the information requested above?
- (2) If no, why not?
- (3) Has the DEP amended this licence?
- (4) If yes, will the Minister supply me with a copy of the amended licence?
- (5) If no, why not?
- (6) Has a similar letter been sent to KCGM Pty Ltd relating to licence No 6420, file No L137/88?
- (7) If yes, will the Minister supply me with a copy of that letter and all the similar information relating to licence No 6420, file L137/88?
- (8) If no, why not?

Hon PETER FOSS replied:-

- (1) Yes. See tabled document
- (2) Not applicable.
- (3) No. I am advised that a note to file (L64-86) indicates that the information has been received, and that the licence will be amended following its expiry in September 1996.

(4)-(5) Not applicable.

(6) With the KCGM Pty Ltd premises, a similar letter was sent on 27 January 1995, in relation to works approval 1191. I am advised that the purpose of that letter was to seek advice on bore locations and ground water sampling undertaken on the premises.

(7) Yes. See tabled document

(8) Not applicable.

GRIFFIN VENTURE INCIDENT - REPORT TABLING

578. Hon J.A. SCOTT to the Leader of the House representing the Minister for Mines:

I refer the Minister for Mines to question without notice 261 of 9 May 1996, which the Minister requested I submit on notice -

- (1) Is the Minister aware that the report of the investigation into the *Griffin Venture* incident of 29 May 1994 was tabled in Federal Parliament?
- (2) Is the Minister further aware that this report indicated that BHP Petroleum Pty Ltd had been advised of the joint federal-state inquiry into the incident on 13 February 1995 and that the report concluded at point 4 of the executive summary that had gas freeing operations commenced, the possibility of an explosion occurring was unlikely, due to the absence of a source of ignition?

Hon N.F. MOORE replied:-

The Minister for Mines has provided the following reply -

- (1) Yes.
- (2) The report did not indicate that on 13 February 1995 BHP Petroleum Pty Ltd had been advised that a joint state-federal inquiry would be conducted. Rather, the report states that on 13 February 1995 the Department of Minerals and Energy acknowledged receipt of a BHPP report and that DME would be assessing the report. I am aware of the report's conclusion in the executive summary as outlined above. However, I would point out that this conclusion is contained in point 3 of the executive summary.

BUDGET (STATE) - SUPPLEMENTARY BUDGET PAPER No 7

Commonwealth Grants for Crisis Accommodation Program

579. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Housing:

In the state supplementary budget paper No 7 -

- (1) What was the total amount of commonwealth grants for crisis housing for the years -
 - (a) 1992-93;
 - (b) 1993-94; and
 - (c) 1994-95?
- (2) In each of the years mentioned above what amount of the grant was spent on crisis housing, and what amount was carried over?
- (3) Does this correspond with the amounts shown in the Homeswest annual reports for those years?
- (4) Why has the total allocation of this money not been spent?
- (5) When will these funds be spent?
- (6) Why did the carryover amount exceed the total amount of the commonwealth grant?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply:

The grants for the crisis accommodation program were as follows:

- | | | | |
|---------|--|---------|---|
| (1) | (a) | 1992-93 | Nil |
| | (b) | 1993-94 | \$3.43m |
| | (c) | 1994-95 | \$0.467m |
| (2) | (a) | 1992-93 | Not applicable |
| | (b) | 1993-94 | The full grant allocation was spent. |
| | (c) | 1994-95 | Funds spent exceeded the grant allocation. The balance of appropriated funds of \$3.3m for the 1994-95 year were received and expended early in the 1995-96 financial year. |
| (3) | Yes. However, the financial notes in the annual reports also reflect the provision of operational expenses against this program. | | |
| (4)-(6) | Not applicable | | |

BUDGET (STATE) - SUPPLEMENTARY BUDGET PAPER No 7

Commonwealth Grants for Local Government and Community Housing Programs

580. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Housing:

In the state supplementary budget paper No 7 -

- | | | | |
|-----|---|--------------|--|
| (1) | What was the total amount of commonwealth grants for local government and community housing for the years - | | |
| | (a) | 1992-1993; | |
| | (b) | 1993-94; and | |
| | (c) | 1994-95? | |
| (2) | In each of the years mentioned above what amount of this money was spent on local government and community housing, and what amount was carried over? | | |
| (3) | Does this correspond with the amounts shown in the Homeswest annual reports for the years in question? | | |

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply:

The grants funds for the local government and community housing programs were as follows:

- | | | | |
|-----|--|---------|----------|
| (1) | (a) | 1992-93 | \$3.24m |
| | (b) | 1993-94 | \$3.986m |
| | (c) | 1994-95 | \$5.353m |
| (2) | (a)-(c) Funds spent exceeded the grant allocation. | | |
| (3) | Yes. However, the financial notes in the annual reports also reflect the provision of operational expenses against this program. | | |

BUDGET (STATE) - SUPPLEMENTARY BUDGET PAPER No 7

Commonwealth Grants for Local Aboriginal Housing

581. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Housing:

In the state supplementary budget paper No 7 -

- | | | | |
|-----|---|--------------|--|
| (1) | What was the total amount of commonwealth grants for Aboriginal Housing under the commonwealth states housing agreement for the years - | | |
| | (a) | 1992-1993; | |
| | (b) | 1993-94; and | |

- (c) 1994-95?
- (2) In each of the years mentioned above what amount of this money was spent on Aboriginal housing, and what amount was carried over?
- (3) Does this correspond with the amounts shown in the Homeswest annual reports for the years in question?
- (4) What amount was used for the operation of the Aboriginal Housing Board in each of these years?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply:

- (1) (a) \$15.862m
(b) \$15.862m
(c) \$15.862m
- (2) Expenditure on Aboriginal housing in each of the three years exceeded the grant allocation.
- (3) Annual reports highlight Aboriginal grants received as follows:
- | | | |
|------|---------|-----------|
| (a)* | 1992-93 | \$15.353m |
| (b) | 1993-94 | \$15.331m |
| (c) | 1994-95 | \$15.211m |

Note: Grants off-set by board expenses.

*Total movement for 1992-93 was \$16.064m which incorporated a change in accounting treatment relating to the expensing of \$711,000 of Aboriginal Village expenditure, which was previously netted directly against the commonwealth grants.

- | | | | |
|-----|-----|---------|-----------|
| (4) | (a) | 1992-93 | \$508,765 |
| | (b) | 1993-94 | \$530,533 |
| | (c) | 1994-95 | \$651,489 |

INDUSTRIAL RELATIONS LEGISLATION AMENDMENT AND REPEAL ACT - CHANGES

582. Hon A.J.G. MacTIERNAN to the Minister for Finance representing the Minister for Labour Relations:

- (1) Did the Minister for Labour Relations determine to proclaim the changes to s12(1) of the Industrial Relations Legislation Amendment and Repeal Act 1995 from 8 June 1996, even though the processes to amend individual awards had not been completed?
- (2) Had the Minister gone so far as to have advertisements prepared and booked for *The West Australian* on 29 May 1996?
- (3) Had the Building Industry Taskforce and the law firm, Freehill Hollingdale and Page, been advised of the Minister's decision to that effect?
- (4) Is the Minister aware that this information has lead the Building Industry Taskforce and Freehill's to wrongly advise employers that they could limit the union's right of inspection from 8 June 1996?
- (5) Will the Minister confirm that he was urged by senior officers of his department to abandon the early proclamation of s12(1), because of the chaos such an Act would cause?

Hon MAX EVANS replied:

The Minister for Labour Relations has provided the following reply:

- (1)-(2) Yes.
- (3) Not to my knowledge.
- (4) No.
- (5) All departmental advice is confidential between departments and their Minister.

BUILDING AND CONSTRUCTION INDUSTRY - PORTABLE LONG SERVICE LEAVE PROVISIONS,

REPORT

587. Hon TOM HELM to the Minister for Finance representing the Minister for Labour Relations:

- (1) Has the Minister for Labour Relations asked for a report into the construction industry portable long service leave provisions?
- (2) Has the report been completed?
- (3) Why did the Minister ask for the report?
- (4) What does the Minister intend to do with the report?
- (5) Will the report be made public?
- (6) If yes, when?

Hon MAX EVANS replied:

The Minister for Labour Relations has provided the following reply:

- (1)-(2) Yes.
- (3) Growing community concern that many employers, on the edges of the construction industry, are increasingly becoming entangled in the long service leave arrangements. The Act is now 11 years old, and given the legislative changes made to similar legislation in other States, it is appropriate to re-examine the relevance of all its provisions.
- (4) Consider the recommendations and determine future action.
- (5)-(6) The report will be made public once I have had the opportunity to consider it.

QUESTIONS WITHOUT NOTICE

WESTRAIL - TRACK MAINTENANCE EMPLOYEES, REDUNDANCY PAYMENTS

583. Hon A.J.G. MacTIERNAN to the Minister for Transport:

- (1) How many track maintenance personnel have been given redundancy payments by Westrail since May 1995?
- (2) What labour hire firms have been engaged since May 1995 to provide temporary track maintenance personnel?
- (3) How much has been paid to each of the labour hire firms referred to above since May 1995?
- (4) How many former Westrail employees have been re-engaged directly as temporary track maintenance personnel?
- (5) What are the hourly rates paid to labour hire firms for the provision of labour at the following levels -
 - (a) Maintainers level 1;
 - (b) maintainers level 2;
 - (c) maintainers level 3; and
 - (d) advanced maintainers level 6?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) 296 track maintenance employees have exited Westrail under the selective voluntary severance scheme since May 1996.
- (2)-(3)

| | |
|---------------------------|--------------|
| Integrated Workforce WA | \$33 458.31 |
| Southern Staff Management | \$193 894.80 |
| Track Force WA Pty Ltd | \$694 487.73 |
| Draintech Pty Ltd | \$14 760.00 |
| ADIA Centacom Industrial | \$360 121.25 |

| | |
|-------------------------|-------------|
| Skilled Engineering Ltd | \$42 560.25 |
| STARF | \$11 355.00 |
| MC Welding | \$6 885.00 |
| Lineweld | \$6 502.00 |

- (4) Westrail has not directly re-engaged any former employees as temporary track maintenance personnel.
- (5) This information is commercially confidential. I am not prepared to disclose the hourly rates on the basis that to do so could prejudice negotiations between contractors and Westrail for such rates in the future.

WESTRAIL - CLAISEBROOK

Track Maintenance Employees, Redundancy Payments

584. Hon A.J.G. MacTIERNAN to the Minister for Transport:

- (1) How many track maintenance employees at Claisebrook have been given redundancy payments since May 1995?
- (2) How many track maintenance personnel were engaged through labour hire firm Track Force for duties based from the Claisebrook depot?
- (3) When was Track Force first engaged to provide track maintenance staff at Claisebrook?
- (4) Was Max Bird at that time an inspector of track maintenance at Claisebrook?
- (5) Was Max Bird involved in discussing redundancies with track maintenance staff?
- (6) When did Max Bird leave the employment of Westrail and did he receive a redundancy payment?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) Twenty-one.
- (2) Sixteen.
- (3) April 1996.
- (4) Yes.
- (5) Mr Max Bird was employed as an Inspector, Permanent Way, and as such was not directly involved in the process of employees leaving Westrail under the Selective Voluntary Severance Scheme.
- (6) Mr Max Bird ceased working for Westrail on 9 August 1996. He did not receive a redundancy payment.

WESTRAIL - TRACK FORCE CONTRACTOR; BIRD, MICHAEL

585. Hon A.J.G. MacTIERNAN to the Minister for Transport:

- (1) Who are the proprietors of the labour hire firm Track Force, which Westrail contracted to provide temporary track maintenance staff?
- (2) What connection does former employee Michael Bird have with Track Force?
- (3) Was Michael Bird, while an employee of Westrail, ever appointed to a position more senior than track master?
- (4) If yes, what was that position?
- (5) When did Michael Bird leave the employment of Westrail and did he receive a redundancy payment?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1)-(2) The directors of Track Force are Michael Bird and Alison Bird.

- (3) No.
- (4) Not applicable.
- (5) Michael Bird resigned from Westrail in November 1992. He did not receive a redundancy payment. As I said in the earlier debate, many people who have left Westrail have started their own businesses and have provided significant services to Westrail. No-one should draw the conclusion that anyone who leaves Westrail should never be able to provide a service or assistance to that organisation.

TRACK FORCE - STATUS

586. Hon A.J.G. MacTIERNAN to the Minister for Transport:

Can the Minister then clarify the status of Track Force? Is he saying that it is a company? If it is, what is its name?

Hon E.J. CHARLTON replied:

I can only give the information I have in front of me. The question related to the proprietors and the answer I gave was that those people were the directors of the company. If the member wants a specific answer to the question about the difference between a proprietor and a director and their various roles, I am happy to obtain that for her.

BUDGET (STATE) - CONSOLIDATED FUND

Revenue Figures

587. Hon JOHN HALDEN to the Minister for Finance:

- (1) What was the actual total revenue figure for the consolidated fund for Western Australia in 1995-96?
- (2) Has the 1996-97 estimated revenue figure been revised and, if so, what is it now?
- (3) Have there been any shortfalls in estimated revenue for 1995-96 compared with actual revenue in areas of -
 - (a) Taxes and licences;
 - (b) territorials;
 - (c) law courts;
 - (d) departmental; and
 - (e) commonwealth funding?

If so, what are they?

- (4) What was the total revenue received in 1995-96 from asset sales?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1)-(4) The Treasurer intends to table actual results for 1995-96 later this week.

Hon John Halden: That is a disgrace!

BUDGET (STATE) - STATEMENT OF CASH TRANSACTIONS ON CONSOLIDATED FUND

June 1996, Release Date

588. Hon JOHN HALDEN to the Minister for Finance:

The statement of cash transactions on the consolidated fund - that is, the Neimeyer statement - is normally available to the public three weeks after the conclusion of each month. These statements provide a valuable indication as to whether the Government's income and expenditure is on track.

- (1) Why has the June 1996 statement of the cash transactions not been released? It is now a month late.
- (2) When will it be released?
- (3) Is this an indication of this Government's commitment to open and accountable government?

Hon MAX EVANS replied:

I ask the member to put that question on notice.

Hon John Halden: What a joke! You cannot even tell us how much revenue the State received this year. You would not be a Minister for Finance's -

The DEPUTY PRESIDENT: Order!

MINIMUM CONDITIONS OF EMPLOYMENT ACT - EMPLOYEE DEFINITIONS

589. Hon J.A. COWDELL to the Minister representing the Minister for Labour Relations:

- (1) Does the definition of "employee" as found in section 3 of the Minimum Conditions of Employment Act 1993 apply to "employee" as defined in part 3A of the Act, inserted by Act No 79 of 1995?
- (2) If yes, does this exclude commission agents from the protection afforded to employees under the provision of part 3A?
- (3) If no, will the Minimum Conditions of Employment Act 1993 be amended to make clear that "employee" as defined in section 3 is not the same as "employee" as defined in part 3A of the Act?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Minister for Labour Relations has provided the following reply -

- (1) No.
- (2) Not applicable.
- (3) The two definitions are required to make clear that the minimum conditions in respect of the payment of wages apply to all persons and the other minimum conditions apply to only certain classes of employees. Should it be demonstrated that the two definitions are causing problems, consideration will be given to legislative change to clarify it.

GRIFFIN VENTURE INCIDENT - ALLEGATIONS BY HON J.A. SCOTT, REPORT TABLING

590. Hon P.R. LIGHTFOOT to the Leader of the House representing the Minister for Mines:

During the Appropriation Bill No 1 debate on 27 June 1996, Hon Jim Scott made a number of serious allegations about incidents on board the *Griffin Venture* and investigations into these incidents. Is the Minister representing the Minister for Mines now in a position to comment on those allegations?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

Extensive investigations, which took 15 man days of work, into Hon Jim Scott's allegations have shown his claims to be misinformed and unfounded. I have a full report on these investigations which is too lengthy to read into *Hansard*. However, it is important that the facts be placed on the record. I seek leave to table the report.

Leave granted. [See paper No 519.]

MAIN ROADS WESTERN AUSTRALIA - BRUCE, GRAHAM, EMPLOYMENT WITH ATLAS-BGC

591. Hon A.J.G. MacTIERNAN to the Minister for Transport:

- (1) Did Mr Graham Bruce, a senior employee with Main Roads Western Australia supply division, approximately three years ago take long service leave and did he, during that time, take employment with Atlas/BGC?
- (2) If he did take such employment with Atlas/BGC, was he during that period of employment involved in supplying products to Main Roads?
- (3) If yes, is the Minister concerned that Mr Bruce may have had a serious conflict of interest in the performance of his duties with Main Roads?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1)-(3) I am not aware of the matters raised by the member. However, Main Roads will interview Mr Bruce and if the member wishes to put a question on notice, I will provide her with a full response in due course.

NATIONAL PARKS - NUMBERS; LATEST GAZETTED; MT ROE PROPOSAL

592. Hon J.A. SCOTT to the Minister for the Environment:

Some notice of this question has been given.

- (1) How many national parks are there in Western Australia?
- (2) When was the last one created?
- (3) Has the Minister decided to be the first Minister for the Environment for at least a decade who has failed to create a single new national park during his term of office?
- (4) When does the Government intend to create the Mt Roe National Park?

Hon PETER FOSS replied:

- (1) Sixty-three.
- (2) On 29 January 1993 the Gloucester National Park was gazetted. On 12 December 1995 reserve No 43961 was gazetted for the purpose of a national park. The member should note that that occurred in my time as Minister. This reserve remains unnamed, but it may be added to the Shannon D'Entrecasteaux National Park.
- (3) This is a rather interesting question. I have created a national park in my term of office. The member takes a peculiar attitude to the reserve estate. In the time in question large tracts of land have been added to the conservation estate and not all of it has been for national parks. In addition, land has been added to existing national parks. The member's question is a rather stupid, rhetorical one, but a total of 142 703 hectares has been added to the conservation estate since 6 February 1993, which includes 20 848 ha to the Karijini National Park and 31 000 ha to the Purnululu National Park - two of this State's most significant national parks. I note that today Hon Jim Scott issued a press release claiming that the area of the national park estate had been decreased. He knows, from the answers to questions he has asked in this place, that the reason the total number of hectares appears to be less is that two of the national parks were remeasured. It was found that their size had been overestimated by the previous Government. Notwithstanding that, he issued a statement saying that the Government has reduced the number of hectares of the national park estate. In fact, it has not done that; it has added to it 142 703 ha. The member said the Government had reduced the national park estate by 20 000 ha. It is one of the most misleading statements I have heard issued.
- (4) The Mt Roe National Park was proposed in the 1992 draft forest management plan. The final forest management plan 1994-2003, approval of which was gazetted on 22 March 1994, amended the purpose of this proposed reserve to be multipurpose reserve under section 5(g) of the Conservation and Land Management Act. No action will be taken to make the area a national park for the period of the forest management plan 1994-2003 to allow a 10 year phasing out period for wildflower harvesting on the proposed reserve. Areas on the Denmark and Kent Rivers have been excluded from the 1992 proposed national park to provide for future dam sites and reservoir areas. The resultant Land Act reserves will be vested in the Water and Rivers Commission.

MANDURAH CULTURAL CENTRE - THE BOARDWALK

593. Hon J.A. COWDELL to the Leader of the House representing the Premier:

- (1) How much has the Government expended on advertising the new Mandurah cultural centre, The Boardwalk, in -
 - (a) local newspaper advertisements; and
 - (b) brochures and pamphlets.
- (2) What is the total projected government budget for publicity on this project?

- (3) Why has government advertising mentioned the Performing Arts Centre, the Peel Discovery Centre, the new war memorial and the cinema complex without acknowledging in any way -
- (a) the \$1.5m for refurbishment of the Performing Arts Centre from the Mandurah City Council;
 - (b) federal and council funds and private sponsorship for the Peel Discovery Centre;
 - (c) federal funding and Returned Services League input into the development of a new war memorial;
 - (d) total council funding for the cinema complex?
- (4) How does the Government justify such a misuse of taxpayer funds in the run up to the state election?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)(a) Advertisements were placed in the *Mandurah Mail* and *Mandurah Telegraph* to advise the community that the Mandurah cultural centre name had been changed to The Boardwalk - Mandurah. The advertisement was repeated in the *Mandurah Telegraph* on 9 August free of charge because its first placement was on page 31 amidst classified advertisements.

| | | |
|-------|--|------------|
| Cost: | Design, production and printing | \$439.00 |
| | Cost of placing advertisements to come from Government | \$917.00 |
| Total | | \$1 356.00 |

- (b) A community information bulletin was produced and distributed through the Mandurah local papers in July 1996. The purpose of this bulletin was to inform residents about the development and how it would benefit local artistic and cultural groups and activities. The bulletin was produced and circulated after obtaining an agreement for the contents from the City of Mandurah.

| | | |
|-------|---|------------|
| Cost: | Printing and production - 25 000 copies | \$3 143.60 |
| | Distribution through local papers | \$1 540.00 |
| Total | | \$4 683.60 |

- (2) The Government is undertaking a community information program on the development of the cultural centre because it will be one of Australia's most sophisticated regional cultural centres and is expected to generate commercial investment, bringing important employment and economic opportunities to the Peel region. Community awareness is being achieved by providing information to the two local newspapers and the local radio station on a regular basis. A monthly column in the *Mandurah Mail*, principally on the public art aspects of the development, began recently. It is envisaged that this method of informing the local community will continue with project updates and the monthly column. There is no set budget for publicity for the project.
- (3) The advertisement announced the new name for the cultural centre which was decided by a committee of local council, artists and community leaders. The advertisement said the name encapsulated the varying features of the project - theatres, art gallery, tourist centre, retail outlets, war memorial, cinemas and restaurants. The advertisement refers to the State Government's commitment to fund and build a new cultural centre, which is the case. The advertisement does not claim that the State Government has funded all components of the new precinct; for example, cinema complex, tourist bureau, war memorial and retail development. At the outset of the community information program instigated by the Government agreement was reached with the City of Mandurah over whether the local council or the State Government would be acknowledged as the driving force behind different components of the development. This agreement has been adhered to. No information is disseminated without approval from the City of Mandurah.
- (4) The construction of a cultural centre for the Peel region, which the local community had attempted to fund locally for more than a decade, is one of the most important public works in the Peel region in years. The community information campaign has been undertaken in a modest fashion focusing on achieving editorial coverage from local media.

EDUCATION DEPARTMENT - CLEANING AND GARDENING CONTRACTS

Police Clearance Checks

594. Hon JOHN HALDEN to the Leader of the House representing the Minister for Education

Will the Minister assure the House that, prior to commencing their employment at schools, all those involved in

contract cleaning and gardening services for the Education Department have had police security checks?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

It is a contract cleaning requirement that the contractor must ensure that all employees and subcontractors of the contractor obtain and provide to the Education Department a police clearance from the Police Department prior to first entering a school. Due to the nature of the work, a police clearance is not a contract requirement for employees of mowing contractors.

WESTERN AUSTRALIAN DEPARTMENT OF TRAINING - CLEANING AND GARDENING
CONTRACTS

Police Clearance Checks

595. Hon JOHN HALDEN to the Minister for Employment and Training:

Will the Minister assure the House that, prior to commencing their employment, all those involved in contract cleaning and gardening services for the Department of Training have had police security checks?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

It is a condition of contract that all cleaning and gardening staff employed on Department of Training sites are required to have police clearance checks carried out on them.

EDUCATION DEPARTMENT - POLICE CLEARANCE CHECKS ON EMPLOYEES, RESPONSIBILITY

596. Hon JOHN HALDEN to the Minister for Employment and Training:

Is it not a regulation of the Education Act that the director general, not the contractor, must ensure that all people working on Education Department premises have security checks?

Hon N.F. MOORE replied:

I am not the Minister for Education. I ask the member to place the question on notice.

BUDGET (FEDERAL) - ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION, FUNDING
CUTS

597. Hon TOM STEPHENS to the Leader of the House representing the Minister for Aboriginal Affairs:

Some notice of this question has been given. The Federal Government has decided there should be a 12 per cent reduction in the Aboriginal and Torres Strait Islander Commission's community development employment program scheme. In large remote communities where few municipal or community services are provided by local government bodies, CDEP currently serves as an unofficial substitute for those services by providing the labour and resources to establish and maintain infrastructure and provide essential community services at a low cost to government. These services which are available to all other Australians are now at risk. Will the State Government step in to support these services?

Hon N.F. MOORE replied:

The member's question given to me included the words "if needed". I thank the member for some notice of this question.

The impact of the Federal Budget on programs supported by ATSIC is not yet clear. I suspect it will be tonight. Judgments on how to best apply limited resources for maximum impact are properly the responsibility of ATSIC. The relationship between the state and commonwealth agencies which provide services to Aboriginal people is not well defined in some areas. This is true of the areas the member nominated. These issues are being addressed within the framework of cooperation now evident between the State and Commonwealth Governments. However, I do not expect an immediate resolution. Return on investment is what all Governments look for. The current climate of budget restraint ensures scrutiny of all areas of government activity and Aboriginal affairs is no exception.

NATURE CONSERVATION STRATEGY - WILDLIFE CONSERVATION ACT REVIEW, DELAYS

598. Hon J.A. SCOTT to the Minister for the Environment:

Why has the Minister failed to complete the nature conservation strategy for Western Australia and the Wildlife Conservation Act review?

Hon PETER FOSS replied:

The reason that the nature conservation strategy has not been completed is that in court action taken against the Government by non-government conservation organisations on some aspects of forest management, the question has arisen as to the legal duties created by policy documents of the Department of Conservation and Land Management such as the proposed nature conservation strategy. As this litigation has not yet been finally determined by the courts, I am unable to give a commitment on when the strategy will be completed.

PUBLIC SERVICE- CHIEF EXECUTIVE OFFICERS, VACANCIES

599. Hon JOHN HALDEN to the Leader of the House representing the Premier:

I have given the Minister some notice of the question.

- (1) How many chief executive officer positions were vacant in the Western Australian Public Service in 1995-96?
- (2) How many of these positions were advertised?

Hon N.F. MOORE replied:

I have been unable to obtain an answer to that question. I ask that it be placed on notice.

WORKSAFE WA - DAVISON INDUSTRIES, CHEMICAL EXPLOSION INQUIRY

600. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Labour Relations:

- (1) When did WorkSafe WA first learn of the chemical explosion alleged to have taken place on 24 July 1996 at Davison Industries?
- (2) Who first advised it of the explosion?
- (3) What steps have been taken by WorkSafe WA to investigate the matter?

Hon MAX EVANS replied:

I thank the member for some notice of the question. The Minister for Labour Relations has provided the following reply -

- (1) WorkSafe WA was first advised of this incident on 25 July 1996.
- (2) An employee of Davison Industries.
- (3) The incident was investigated by an occupational hygienist from WorkSafe Western Australian on 1 August 1996. Several notices requiring improvements to work practices were issued on the company.

TRAVEL - MINISTER FOR SPORT AND RECREATION

Atlanta Trip

601. Hon TOM STEPHENS to the Minister for Sport and Recreation:

- (1) Did taxpayers pay for his recent trip to Atlanta?
- (2) If not, who did?
- (3) What was the purpose of the Minister's subsequent visit to Ottawa following his visit to Atlanta?
- (4) Will the Minister table a prompt, detailed report on his recent visits in the same manner as his self-professed hard working ministerial colleague, Peter Foss, who has just tabled in this place a detailed statement of his overseas travel?

Hon N.F. MOORE replied:

I thank the member for some notice of the questions. He put a question to my office this afternoon and I have an answer provided to that. However, he asked additional questions of which I will try to remember the second part.

- (1) Yes, the Western Australian taxpayers.
- (2) The honourable member has obviously been misinformed about my recent ministerial visit to Canada following my four day inspection of sporting facilities at the 1996 Olympic Games held in Atlanta. I did not visit Ottawa. However, in the capacity of Minister for Employment and Training I was invited by the Alberta Government to discuss issues relating to the development of the oil and gas industry in Alberta. As part of these formal discussions, I signed memorandums of understanding with the Alberta Government and Canada's Petroleum Industry Training Service. It signalled the beginning of collaboration between Canada and Western Australia on vocational education and training, and research in the oil and gas industry. These partnering arrangements will also provide vocational education and training courses to the oil and gas industry in Australia and South East Asia. I did not visit Ottawa. The only time I have been to Ottawa was in the company of the honourable member. I hope he will not use the same description of my visit as was used about the visit that he and I were both engaged in. I have no problem in tabling a report about my visit to Atlanta and to Canada and I will do so in due course.

METROBUS - CAREY TRANSPORT; BLACK AND WHITE TAXIS, CONTRACTS

602. Hon A.J.G. MacTIERNAN to the Minister for Transport:

Notice of the question has been given.

- (1) What services have -
 - (a) Carey Transport; and
 - (b) Black and White Taxis

been contracted to provide to MetroBus?

- (2) What is the cost to date of services provided by -
 - (a) Carey Transport; and
 - (b) Black and White Taxis?
- (3) Are -
 - (a) Carey Transport; and
 - (b) Black and White Taxis

still supplying services to MetroBus and if yes, for what period will they be supplying such services?

- (4) Can the Minister confirm -
 - (a) Carey Transport; and
 - (b) Black and White Taxis

have not collected fares on some or all of the MetroBus routes they have operated?

- (5) If yes to (4), what is the estimate of forgone revenue?

Hon E.J. CHARLTON replied:

I thank the member for some notice of the question.

- (1) Those scheduled bus services which the MetroBus depots at Joondalup and Gosnells are unable to provide due to staff shortages.
- (2) The cost is \$29 991. This figure needs to be offset against the normal bus operational costs that would have been incurred had the services operated and the requirement to meet customer satisfaction levels.
- (3) Yes. They will be used whenever MetroBus staff resources are unavailable in order to minimise inconvenience for our public transport customers.
- (4) Yes.
- (5) The estimated forgone revenue is approximately \$6 000.

I want to give more good news to the House. As members should be aware, MetroBus was not successful in the tender round recently completed. In the lead up to that, it did the right thing in keeping its staff levels to a minimum to ensure that they were not in excess of its requirements. As a consequence of the tender results, many people made the decision to join with three private operators who won the contracts. In addition, a number of people have been suffering from the same influenza that is afflicting many of the members of this place and are therefore not able to attend work. A combination of those things has seen a shortage of staff at MetroBus on occasions. Rather than not run services as was the case recently, MetroBus brought in people to run the service. The \$30 000 cost is not the net cost. I have not made that figure public. However, that is forthcoming. The \$6 000 in uncollected fares has to be taken into account in case someone out in the left field decides to say that this is another example of the Government wasting money. Since we came into government the costs of operating MetroBus have been reduced by \$25m. If the Opposition wants to grandstand on radio and have Mike Wadsworth tell it that it knows nothing about economics as did Ross Drabble, I give it a warning: Do not do it because it will finish up with the same sort of stuff on its face that it ended up with yesterday.

BUDGET (FEDERAL)- ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION, FUNDING CUTS

603. Hon TOM STEPHENS to the Minister for Employment and Training:

I refer to the Federal Government's declared position of removing \$480m from the Aboriginal and Torres Strait Islander Commission, the recent board decisions in that area of ATSIC funding to the State, and the fact that the State Government has now been briefed by ATSIC on the impact on those programs for Aboriginal employment strategies in Western Australia with large numbers of youth employment programs in the metropolitan area and in the south west about to close. What steps will the Minister take to introduce programs that will guarantee employment and training programs for young Aboriginal people across the metropolitan area and the south west who are about to be deprived of those programs by virtue of those decisions taken by the Federal Government, of which this Government is aware as a result of those briefings?

Hon E.J. Charlton: He should make sure we do not get white blokes like you involved in ripping off the system.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon Tom Stephens: You are a gross Minister.

The DEPUTY PRESIDENT: Order!

Hon E.J. Charlton: You do not like it, do you, Mr Stephens?

The DEPUTY PRESIDENT: Order! I formally call Hon Tom Stephens and the Minister for Transport to order.

Hon N.F. MOORE replied:

After that exchange I have forgotten what the question was, but the interjections were terrific. I have not been briefed by ATSIC on what may or may not be contained in the Budget tonight.

Hon Tom Stephens: It is not in the Budget; it was announced last week.

Hon N.F. MOORE: I have not been briefed, Mr Stephens. That is the situation. ATSIC does not always tell me what it does with the taxpayers' money; I wish to goodness it would. A lot of people in Australia would like to know what it does with all the money it spends. I am sure Hon Tom Stephens would like to know too. However, ATSIC does not make a point of telling me. I will look at what comes out of tonight's Budget and the consequences for employment programs provided in Western Australia and make sure we do as much as we can to alleviate any situations that might arise as a consequence of any expenditure reduction. The information that has been provided to me is that many of the cuts are necessary and will lead to organisations delivering programs just as efficiently and effectively, but with less funds. I will be quite happy to look at the situation of employment among Aboriginal people. I have no argument with the member about problems with Aboriginal employment; however, the situation was not very good when Mr Stephens was in government. We have inherited a situation in this State and in this country that needs to be resolved. It is in the process of being resolved. If the member looked at employment figures in Western Australia he would see vast improvements in the past three years. I will take on board the consequences of tonight's Budget and see what the Government at the state level is able to do to alleviate any problems that might arise.
