

Legislative Council

Thursday, 7 September 1995

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

STATEMENT - PRESIDENT

Royal Commission Into Use of Executive Power - Hilditch, Mark, Leave to Appear

THE PRESIDENT (Hon Clive Griffiths): I have received a request from the Royal Commission Into Use of Executive Power that the House grant leave to Mr Mark Hilditch, formerly an officer of this House and committee clerk to the Constitutional Affairs and Statutes Revision Committee, to appear and give evidence to the royal commission on his activities as clerk to that committee during the inquiry into Western Women Financial Services Pty Ltd.

MOTION - ROYAL COMMISSION INTO USE OF EXECUTIVE POWER

Hilditch, Mark, Leave be Granted to Appear as Witness

On motion without notice by Hon George Cash (Leader of the House), resolved -

That Mr Mark Hilditch be granted leave of the House to appear as a witness before the Royal Commission Into Use of Executive Power and give evidence relating to his duties as clerk to the Constitutional Affairs and Statutes Revision Committee.

AGRICULTURAL PRACTICES (DISPUTES) BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

RULING - PRESIDENT

Urgency Motion to be Moved by Hon Alannah MacTiernan

THE PRESIDENT (Hon Clive Griffiths): I have received a letter today from Hon Alannah MacTiernan informing me that it is her intention this afternoon to move a motion under Standing Order No 72. Having considered the matter the member wishes to raise for discussion, I have decided that I should not allow the matter to proceed under the urgency motion procedure.

As I have made clear in previous rulings, debate under Standing Order No 72 proceeds on a motion that the House, at its rising, adjourn to a date of the type described in the rule. The adjournment motion, not the matter to be discussed, is the vehicle to enable the House to discuss a matter of urgency. However, Standing Order No 72 is subject to the normal rules of debate. Those rules prohibit serious allegations effectively raising a matter of privilege being made against a member or Minister as part of a wider debate. Those allegations must be set out in a substantive motion confined to a statement of the House's belief regarding the allegations and a proposal as to action the House should take against the member or other person said to have acted improperly.

I note that the honourable member, as recently as 6 April this year, sought unsuccessfully to raise a matter of privilege about the same matter and then discussed it on the subsequent adjournment motion. Presumably, as a result of additional information that has come to her, she now intends to raise further concerns. Had the letter stopped immediately before paragraphs 1 and 2 I could not object to the issue being raised under Standing Order No 72. However, in those paragraphs the member puts the issues in terms that raise a matter of privilege; namely, whether a Minister has misled the House. The Deputy President advised the House when the matter was raised in April that it was one thing to mislead the House; it was quite another to mislead the House deliberately.

In the context of the letter I have received, it seems clear to me that the issue of whether the House has been misled raises the issue of intent. For that reason alone I cannot accept the use of Standing Order No 72.

Additionally, the second paragraph asks this House to consider the propriety of acts of the Premier based on statements made in an affidavit. A strict application of Standing Order No 97 would prevent any consideration of the conduct of a member of the Legislative Assembly, be he a Minister or not. At the very least, it is the practice of this House to form its criticism of a Minister who is not a Legislative Councillor in a substantive motion. However the second paragraph is worded, the end result would be a discussion about the Premier's acts and the propriety of and his motivation for those acts. In my view, that too should be the subject of a substantive motion. I am not saying that the subject matter of the letter cannot be debated in this House. What I am ruling is that Standing Order No 72 is not the proper vehicle to enable that debate.

Hon A.J.G. MacTIERNAN: Mr President, I am seeking your guidance because a very serious issue needs to be discussed. On a previous occasion when I sought to raise this issue by way of a matter of privilege, I was told that it could not be dealt with in that way.

The PRESIDENT: Order! I have already explained in my ruling that I am familiar with, and aware of, what occurred on the previous occasion. Although it occurred when I was not in the Chamber, I have read the transcript of what did occur. I could quite easily have finished my comments at the end of the first paragraph; I could have stated simply that I rule the proposition to be out of order. However, I have given the member the benefit of extending to her very exhaustive reasons about how I came to my conclusion. I do not have to give reasons, but because of the nature of the subject, I felt obliged to offer some reasons for reaching my decision. That decision is not open to debate. I know that the member is obviously aggrieved by my decision. However, irrespective of whether she is aggrieved, the fact of the matter is that, for all of the reasons I gave, I believe this matter is not one that can be raised under Standing Order No 72. I have said that the matter can surely be debated in this place, but there are proper procedures under the standing orders by which that can be done. This does not happen to be one of them.

If the member is dissatisfied with the reasons I have given and the ruling I have reached, a glance at Standing Order No 108 will show what her manoeuvrability is at this time: It is nothing more or less than to move to disagree with my ruling. That is a decision that the member must make. Otherwise, there is no manoeuvrability at all at this time. She can see me afterwards or she can write me a letter. Unless she moves to disagree with my ruling, I do not want to have a debate with her on the floor of the Chamber.

Hon A.J.G. MacTIERNAN: It is not my intention to have a debate on this matter, Mr President. I am simply seeking your guidance in light of the situation in which I find myself; that is, having sought previously to raise this as a matter of privilege, I am only now raising it under Standing Order No 72. I wonder whether you would now entertain a motion of privilege - I garner from the decision that you made that you are not necessarily committed to the decision made by the Acting President on that day - under Standing Order No 155 at this time.

The PRESIDENT: Order! I have already said to the member that it is my belief that this matter should be brought before the House as a substantive motion on notice. I cannot be clearer than that. In other words, the member's proposition is not an acceptable one.

Hon A.J.G. MacTIERNAN: I want to make this clear, Mr President. I understand your comments about the second part of the motion in the letter that I intended to put before the House under Standing Order No 72. I am now proposing to move under Standing Order No 155 that matter of privilege, that matter relating to the misleading of the House. From your reasons I understand that you do take the view that the question of whether the House has been misled can be dealt with under Standing Order No 155; it is indeed a question of privilege. It would be my intention to move a motion that basically stops at the end of part one of the letter.

The PRESIDENT: Order! Members need to understand that in this place the rules do not change from day to day; they are constant. The position is no different today than it was in April when the member first raised this matter. In April the member was told -

If the member is prepared to pursue the argument that it was a deliberate misleading on the part of the Leader of the House, the matter can be considered.

If the member is prepared to do that, she can raise it as a matter of privilege. Otherwise she should listen to what I say; that is, she should give notice and move this matter by way of a substantive motion. As I said before, I do not think I can be clearer than that.

I have deliberately not read out the letter because I believe is entitled to be kept confidential within the limitations I have, bearing in mind that I have had to give the member a ruling and some reasons. I have said that if the member had stopped before the first and second paragraphs, I would have accepted her intention to move under Standing Order No 72 - but she did not do that. Her only course is to be prepared to pursue the argument that it was a deliberate misleading action by the Leader of the House. I can say no more.

Hon GEORGE CASH: I refer to the *Hansard* of Thursday, 6 April 1995, during the adjournment debate in which there was, by way of discussion across the Chamber, comments by both Hon Alannah MacTiernan and me. I remind the House that at the time I said -

Opportunities are available in this House for us to investigate the matter further.

Perhaps we could discuss those next week, on Tuesday. Whether a privileges committee is necessary remains to be seen. Perhaps the matter can be addressed further by substantive motion.

It seems that is the matter that needs to be decided.

The PRESIDENT: Order! I have just said that the rules do not change. This ruling I have given is not open to debate. The manoeuvrability of members is not open to debate. I allowed Hon Alannah MacTiernan to make her comment only because I felt she was entitled to an explanation of why I ruled that way. I will proceed to the next item of business because there is no other recourse for me.

Hon A.J.G. MacTIERNAN: I would like to move a motion under Standing Order No 155.

The PRESIDENT: I presume the member has framed her motion, because that must be done. It must be handed to me.

Hon A.J.G. MacTIERNAN: In view of the previous ruling by the Deputy President -

The PRESIDENT: Order! Does the member have the motion? I must make one other point: This matter must have arisen since the last sitting of the House because that is the only reason that Standing Order No 155 can take precedence. That is -

Whenever a matter or question directly concerning the privileges of the Council, or of any committee or member thereof, has arisen since the last sitting of the Council, a motion calling upon the Council to take action thereon may be moved

...

Therefore, the subject matter of the motion must have arisen since the last sitting of the House.

Hon A.J.G. MacTIERNAN: I am not debating your ruling, Mr President. You will appreciate the difficulty in which I find myself in that previously we had difficulty with this question when we raised it as a matter of privilege. It is a matter of considerable urgency. I am not trying to debate it, but in order to determine whether we should exercise our right to dissent from the ruling I want to clarify a few points about that ruling.

The PRESIDENT: Order! You will not do that at all.

Dissent from President's Ruling

Hon A.J.G. MacTIERNAN: With some reluctance, then, Mr President, I move -

That the House dissent from the President's ruling.

The PRESIDENT: Order! Hon Alannah MacTiernan has moved to disagree with the ruling I made with regard to the motion she proposed to move under Standing Order No 72.

Hon Tom Helm: I second the motion.

Hon A.J.G. MacTIERNAN: Unfortunately, I did not have any warning - which I think normally would have come - that Mr President intended to take this action. Therefore, I have not had the opportunity to discuss the matter with Mr President more fully or to absorb the reasons that he has advanced for his decision. I am mindful that he is required to do either of those two things but I thought that for the proper functioning of the House that would be a courtesy we could have extended to each other.

The PRESIDENT: Order! The President has more than just letters regarding Standing Order No 72 to deal with each day. The President's extensive reasons take some time to deliberate upon. The point the member has raised certainly occurred to the President, but to suggest that he was being discourteous is to be discourteous.

Points of Order

Hon TOM STEPHENS: I understand that the member is in the process of moving a dissent from your ruling, Mr President. I thought the member would be able to develop that argument, at which point you could respond, which might be more appropriate.

The PRESIDENT: That is not a point of order. Unfortunately, the member is wrong. Hon Alannah MacTiernan is suggesting that the President was discourteous. I am saying that the President believes that is a very discourteous comment to make.

Hon TOM STEPHENS: Members might like to take into consideration whether that argument might persuade them to vote in support of the dissent motion.

The PRESIDENT: That is not a point of order! I have bent over backwards to allow Hon Alannah MacTiernan to move the motion, because I understand her concern, but the member will not break the rules in doing that. To suggest that the President was being discourteous is to break the rules of debate. Let us have the rules understood: The only matters the member can discuss during the course of this debate are the words I used to indicate my reasons for disallowing the use of Standing Order No 72 to move her motion. No other argument will be entertained. I presume the member has a copy of what I said.

Hon A.J.G. MacTiernan: I do not.

The PRESIDENT: That is the matter to be debated. The member cannot debate the substance of her proposal. She can debate the reasons that I gave to disallow her moving her motion today. That is all she can debate.

Debate Resumed

Hon A.J.G. MacTIERNAN: I am trying to absorb the ruling, Mr President. I wanted to set out some reasons why I believe the matter is urgent, why we should be dealing with it in this Parliament and in this House, and why it is a matter which should be properly heard under Standing Order No 72. Mr President, as I have brought to the attention of this House before, we have had in our possession -

Point of Order

Hon P.R. LIGHTFOOT: I submit that if the member is directing the point of her debate under Standing Order No 108 she is out of order. I say that, Sir, because almost half an hour has elapsed since she introduced Standing Order No 72. Standing Order No 108 specifically calls for the point to be taken at once, if my memory serves me correctly.

The PRESIDENT: Order! I know what it says. That is not a point of order. We are taking it at once because we had half an hour of other business, including the discussion on this matter.

Debate Resumed

Hon A.J.G. MacTIERNAN: I can understand the concern on the other side of the House to stop debate on this matter. I understand that members opposite would be feeling extremely uncomfortable about the matters that are canvassed in the substantive motion. It is important that I set out why I believe this is a matter of urgency. Events are unfolding outside this place.

Point of Order

Hon PETER FOSS: Whether it is a matter of urgency is not germane to the debate: The debate is whether you, Mr President, are correct or incorrect. Urgency relates to Standing Order No 155 or Standing Order No 72. I ask that Hon Alannah MacTiernan says why your ruling is wrong.

The PRESIDENT: I was about to tell the honourable member that I did not say that the matter was not urgent: I said that Hon Alannah MacTiernan was permitted to raise the matter, but that Standing Order No 72 was not the vehicle for doing it. The fact that the matter is urgent has nothing to do with Standing Order No 72 if it more appropriately should be introduced under another standing order. I outlined that to Hon Alannah MacTiernan before she started to speak. The point of order raised by Hon Peter Foss is correct.

Debate Resumed

Hon A.J.G. MacTIERNAN: Thank you, Mr President. I can see that there is a concerted effort on the part of the members of the Government to stop any -

Point of Order

Hon PETER FOSS: I think I am being severely misrepresented by the member. She has said that there is a concerted effort to prevent her from speaking. All I have done is ask that the standing orders of this House be observed. I do not consider that that indicates anything other than propriety. I ask for that remark to be withdrawn.

The PRESIDENT: I ask the honourable member to direct her comments to the motion she has moved and forget about talking about what motivates other people to do things.

Debate Resumed

Hon A.J.G. MacTIERNAN: It is clear that we will not be able to progress in this House today an important matter relating to the conduct of this House and the administration of government. That is a great pity. It is a further indication of the futility of much of what we do in this place. During the numerous attempts by the other side to stop debate on this matter I have had an opportunity to look at -

Point of Order

Hon I.D. MacLEAN: I believe the member's comments were reflecting on the House.

Hon Tom Stephens: You're a great reflection on the House!

The PRESIDENT: Order! I try to ensure that all members get an opportunity to speak, but they must speak in accordance with the rules. If Hon Alannah MacTiernan keeps within those parameters I outlined, I want everybody else to keep out of it. I will bring her back if she strays from those directions I have given.

Debate Resumed

Hon A.J.G. MacTIERNAN: As I have been attempting to say for some time, during those pointless interjections I had an opportunity to peruse the comments that were made by the President and his reasons for the decision. Consequently, I will withdraw my motion of dissent.

Hon George Cash: That is not on; I am going to have a chance to speak too.

The PRESIDENT: Order! The honourable member can seek leave to withdraw it, but she knows what happens in this place.

Hon A.J.G. MacTIERNAN: It is clear that there will be a narrow focus to this debate on the dissent motion and that the general issue of urgency is unable to be canvassed. This is a matter of gravity. The difficulty I had when I raised the motion of dissent was that I had not had an opportunity to absorb the content of your arguments, Mr President. During the interjections I have had occasion to do that. On that basis I now seek leave to withdraw that motion of dissent.

[Leave denied.]

Hon GEORGE CASH: The reason I did not agree to grant leave to withdraw the dissent motion is that, had that been the case, I would not have been given an opportunity to speak on this motion. Whether that was by design, I do not know; however, there are two sides to the story. One thing we had better get clear in this House is that when any Presiding Officer is in the Chair, he or she is expected to act in a fair manner and not exhibit any bias. That has always been the case when you have been in that Chair, Mr President. I do not think members opposite would dispute that. If they do, perhaps they would be good enough to raise the matter now.

This is not a case of our arguing whether a need exists to discuss the substance of the motion Hon Alannah MacTiernan had intended to raise by way of an urgency motion, but whether she is using the appropriate procedures of this House. Clearly, given the President's ruling, she has not used the appropriate procedures under the standing orders. I make it clear that I want the matter discussed. I spent some time today after receiving a copy of Hon Alannah MacTiernan's motion, for which I thank her, assembling some facts so I was aware of the situation. Please do not believe that I am trying to run away from it; I want the matter cleared up.

The last time Hon Alannah MacTiernan raised this matter I also made that point; that is, I thought there was a need for the matter to be clarified. However, under Standing Order No 72 the matter is to be a matter of urgency and not a matter of privilege. Under Standing Order No 155 members can raise matters of privilege; however, that is subject to the provisions of that standing order. That requires, in part, that the matter be raised as a matter of privilege immediately at the commencement of the next sitting of the House. That has not occurred; therefore, the only way that matter can be raised is by substantive motion. I said in April that I thought it would be an appropriate way of dealing with that, and that Hon Alannah MacTiernan and I should talk about it. She obviously did not want to do that at the time. If the matter is made a substantive motion, the Government will provide time to debate it; however, that needs to be discussed between the Government and the leader of opposition business in this House.

The decision you have made, Mr President, is unquestionably the right decision. It is very much an interpretation of the standing orders. There is no dispute from this side that the matter should be discussed at the appropriate time by way of substantive motion. That does not necessarily mean today, because the Government has other business it wants to get on to. However, my offer from April for Hon Alannah MacTiernan to move a substantive motion on the matter stands. I repeat that the reason I did not believe the matter should be withdrawn was that it would have allowed only one side of the story to be told.

Question to be Put

On motion by Hon George Cash (Leader of the House), resolved -

That the question be now put.

Dissent from President's Ruling Resumed

Question put and negatived.

COMMITTEES FOR THE SESSION - STANDING ORDERS COMMITTEE

Motions for Disallowance of Regulations Report, Tabling

Hon Barry House reported that he had been directed to present the report of the Standing

Orders Committee on motions for disallowance of regulations, documents quoted by members and the uniform legislation 120 day rule, and on his motion it was resolved -

That the report do lie upon the table and be printed.

[See paper No 588.]

**MOTION - FINANCIAL ASSISTANCE GRANT (FEDERAL), ROAD
MAINTENANCE COMPONENT**

Resumed from 6 September.

HON GEORGE CASH (North Metropolitan - Leader of the House) [3.10 pm]: The Minister for Transport was speaking to this motion yesterday. Regrettably, he is unable to be here today to continue his remarks. However, given that this matter has been on the Notice Paper for a considerable time and given that the Opposition has already presented its case and the Minister for Transport has, in part, completed his response, I believe the matter can be put to the vote.

The **PRESIDENT**: The question is, that the motion be agreed to.

Point of Order

Hon **KIM CHANCE**: I do not believe what the Leader of the House is proposing is in order. The Opposition most certainly has not completed its contribution to the debate. There was no consultation between the Leader of the House and me about this matter. As recently as a few minutes ago, Hon Bob Thomas wanted to say a word or two on this matter.

Hon **GEORGE CASH**: I did not realise that. The Minister is not here today. You can adjourn the debate if you wish.

Hon **KIM CHANCE**: I would have preferred to have the opportunity to close the debate myself.

Hon Bob Thomas interjected.

The **PRESIDENT**: Order! There is far too much audible conversation. Half a dozen things are happening at once. Hon Kim Chance is perfectly correct. However, when the Leader of the House finished speaking, I put the question. That is all that happened. Hon Kim Chance had the right to raise a point of order. As that point of order has now been satisfactorily dealt with, I will put the question again.

Debate Resumed

Debate adjourned, on motion by Hon Bob Thomas.

**MOTION - JOINT SELECT COMMITTEE ON WOMEN IN PARLIAMENT,
APPOINTMENT**

HON CHERYL DAVENPORT (South Metropolitan) [3.14 pm]: I move -

- (1) That a Joint Select Committee of the Legislative Assembly and the Legislative Council be appointed to -
 - (a) examine the extent of, and reasons for, existing impediments to women standing for Parliament;
 - (b) examine whether and how parliamentary procedures and practice can hinder women's aspirations to enter Parliament and their participation in its functions;
 - (c) develop strategies for increasing the number of women and the effectiveness of women in parliamentary, political and electoral processes; and
 - (d) develop policy to meet the needs of all members and Parliament House staff who have family responsibilities.

- (2) The committee consist of eight members, of whom -
 - (a) four shall be members of the Legislative Assembly; and
 - (b) four shall be members of the Legislative Council.
- (3) A quorum for a meeting is four, provided that each House is represented at all times.
- (4) The committee shall not sit while either House is actually sitting unless leave is granted by that House.
- (5) That the committee have power to send for persons and papers, to sit on days over which the Houses stand adjourned, to move from place to place and to report from time to time.
- (6) That the committee present its final report by 12 March 1996 to coincide with the 75th anniversary of the election of Edith Cowan.
- (7) That in respect of matters not provided for in this resolution, the standing orders of the Legislative Council relating to select committees, shall be followed as far as they can be applied.

Although I did not expect to be speaking to this motion today, it gives me great pleasure to explain why we should have a select committee to examine the possibility of involving more women in the political system. I move my motion today at a time when great emphasis on the status of women is being demonstrated in Beijing. Many people will have read about what is happening at the non-government organisation conference and the United Nations Fourth Decade for Women Conference.

Like my colleague the member for Kenwick in the other place, I urge members to consider the motion carefully. Their support for it would be a fitting tribute to Australia's first woman member of Parliament, Edith Cowan, who was a member of the State Parliament of Western Australia. It would be a fitting tribute next year on the seventy-five anniversary of her election if we were able to produce a report which would make this Parliament far more user friendly to women than it currently is.

Hon Max Evans: Oh!

Hon CHERYL DAVENPORT: Hon Max Evans may want to interject and I am prepared for him to do that, but that interjection was an example of one of the problems that women face in this place. This is a very adversarial arena and many women do not like to be involved in that kind of debate. We like to work more collectively.

Hon Max Evans: Don't your friends treat you as a team member?

Hon CHERYL DAVENPORT: Absolutely. However, I sometimes think that not much respect is given to members by each other in this House. I would like us to address those issues and make this a better place for all of us to participate in. If we deny ourselves the opportunity to work together on a proposal like this, we continue to deny Western Australia the benefit of the knowledge and experience of 52 per cent of the State's population. As everyone knows, neither House of this Parliament reflects the population in the wider community of Western Australia. It is high time that issues like this were addressed. Women have had the right to vote in this country for 100 years. That right was established in South Australia in 1894. Western Australia was the second State to grant women suffrage and that will be celebrated in this State in 1998. We are very close to the anniversary of suffrage in this State. In 1898 we also gained the right to sit in and participate in the Parliaments of this State. I have to say that we are far from achieving the 50 per cent representation which would make us equal.

Firstly, I intend to concentrate on paragraphs (1)(a) to (d) of my motion. There is no doubt that a range of systemic barriers prevents women from entering Parliaments, not only in Australia but around the world. I want to explain how I see some of those barriers. I also have no doubt that the select committee, were it to be established, would identify other barriers. The structure of Parliaments worldwide has been designed by men, for men. That happened well over 100 years ago in Australia. I suggest to my male

and female colleagues in this place that very little about those structures has changed during that time.

I remember the anecdote surrounding the late Hon Grace Vaughan. Her campaign finally led to the provision of a women's toilet closer to the Chamber - she was frustrated at having to go to a ground floor toilet. The provision of a new toilet was obviously a welcome change. I was told that she had to follow the then President of the Legislative Council into the men's toilet opposite the members' dining room.

Hon Tom Stephens: Not this President, surely.

Hon CHERYL DAVENPORT: No, not this President. I am sure that Mr President would have been far more progressive and would have made sure that a toilet was provided much sooner. It was very soon after the late Hon Grace Vaughan's action that a toilet further down the corridor was provided. One could say that that is a trivial issue.

Hon George Cash: It's not trivial if you want to go.

Hon CHERYL DAVENPORT: No, not if one is in a hurry; that is right.

In Adelaide last year, I attended a conference at which Glenda Jackson, now a British Labour member of Parliament, said that the House of Commons has a shooting gallery but that it has no creche. I am sure that British members of Parliament and their staff, like us, would find life much easier if they had family care within the precincts of Parliament.

Having related those perhaps light-hearted issues, I now concentrate on access to the parliamentary process. There is no doubt that political party structures in Australia must look at their preselection rules with a view to making sure that the barriers that impede women from gaining preselection in winnable seats are removed. Women in the Labor Party have conducted a long campaign aimed at dealing with their own party structure. Having put the rule in place, we will still have to make sure that it works. That is one reason why we have made sure that there is a sanction process within our preselection rules that will ensure that, by 2002, 35 per cent of our national members of Parliament are women. If our party does not achieve that target, our preselection process will be reopened. Every seat will again be declared open, and we will repeat the process until that 35 per cent target is reached.

There will be three federal elections before that target needs to be met. Although I have no difficulty with the candidature of Martin Ferguson for the federal seat of Batman, much of the debate about it was an attempt to reflect on the Labor Party's ability to deliver its affirmative action policy. As a longstanding member of the Labor Party, I know that, when we have to meet that 35 per cent target, we will address those questions and the target will be met.

Hon Sam Piantadosi: That process is already well under way.

Hon CHERYL DAVENPORT: Yes. Certainly within the Labor Party in this State there is far more reasonable debate on the topic.

Hon N.D. Griffiths: Two out of three East Metropolitan members are women.

Hon CHERYL DAVENPORT: Indeed. Our rule actually delivers 35 per cent women and 35 per cent men.

Hon Peter Foss: Women have done very well in recent elections.

Hon CHERYL DAVENPORT: I congratulate Hon Peter Foss - Several members interjected.

Hon CHERYL DAVENPORT: I hope that people will not denigrate the argument. I include my own colleagues in that. We should congratulate the newer Australian political parties, the Australian Democrats and the Greens, on their track records.

Hon N.D. Griffiths: The Greens are 100 per cent men.

Hon CHERYL DAVENPORT: We must acknowledge Green representation in the

federal Parliament. They are both women. Their party has a very egalitarian way of reaching its target.

Hon N.D. Griffiths: Is it not the case that the Greens are 100 per cent male in Western Australia?

Hon CHERYL DAVENPORT: Yes, but there is only one.

Hon Sam Piantadosi: Stop picking on Jim.

Hon CHERYL DAVENPORT: The Labor Party has taken the first hard step in breaking down the barrier at national and state levels. In the mid-1980s, there were two women Labor senators, but that is no longer the case. The fact that women were concentrated in the more marginal House of Representative seats made us realise that it was time to deal with the problem. In the two years leading up to the party's state and national conference last year, we set about making sure that we did the ground work to implement the rule - admittedly, it is seven years away - that will net us the 35 per cent minimum target. Obviously, that does not prevent us from having more.

Such decisions impact on the wider community. I am sure that other parties will also move to address those matters. They might not do so in the same way as we have, nevertheless it is timely to address a matter that has begged attention for a long time.

Another matter is the method of election. A large number of international research papers show that countries that have adopted a form of proportional representation consistently elect more women than countries with single member constituency systems elect. That is certainly true in Australia, where women members in the Senate and in most upper Houses are concentrated in safe seats. Women representatives in this House are generally in their party's safer seats. That certainly has been a way of making sure that women occupy the safe seats rather than their being concentrated in the marginal electorates which is the case with our Assembly sisters.

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

CARAVAN PARKS AND CAMPING GROUNDS BILL

Third Reading

Bill read a third time, on motion by Hon George Cash (Leader of the House), and returned to the Assembly with amendments.

SENTENCING BILL

SENTENCING (CONSEQUENTIAL PROVISIONS) BILL

SENTENCE ADMINISTRATION BILL

Second Reading - Cognate Debate

Resumed from 6 September.

HON CHERYL DAVENPORT (South Metropolitan) [3.31 pm]: Like Hon Nick Griffiths, I indicate that the Opposition generally supports this legislation. I am very pleased about the attempt to consolidate all the sentencing provisions for offenders across the board. I shall concentrate my remarks on the sentencing of juvenile offenders. I must confess to not having done as much work as I would have liked before commenting on the legislation. However, I shall make general comments on the Sentencing Bill.

I have been through the Minister's second reading speech and will seek clarification on certain points. I shall refer to the policy on which these Bills are based. Although I acknowledge that the Government is seeking to approach this matter in a tough but fair way, there are some concerns that the sentencing of juvenile offenders is not always fair compared with the sentences for adults convicted of the same crime. For example, adults sentenced for the offence of dangerous driving causing death could be released after 18 months in prison. I contrast that with the sentence in the first case that springs to mind of a juvenile who tried using the Crime (Serious Repeat Offenders) Act - that involving

Kingsley Pickett, a young lad involved in the unfortunate tragedy at Christmas in 1990. I do not for one moment condone his crime, but there is a view in the community that his sentence of imprisonment at the Governor's pleasure could be seen as inconsistent with the sentence imposed on an adult convicted of dangerous driving causing death. I have some grave concerns about what has obviously emanated from the new juvenile parole provisions. Although that young man was released on parole to an Aboriginal community some distance from the metropolitan area, some people feel that he was released and set up to fail. I hope that these issues can be looked into as part of these new sentencing provisions, to make sure there is equity in the sentencing and parole provisions linked to this legislation, and also in the rehabilitation programs. One wonders what opportunity there is for a person convicted of that crime at such a young age to rebuild his life under the current system.

I raise some concerns in relation to women. I cite a couple of examples and I ask members to think about them. In the main, welfare fraud offences are committed by women. I do not condone welfare fraud, but many of the women convicted of that crime commit the offence to provide for their children, largely because maintenance payments are not forthcoming but also for a range of other reasons. I compare some of the penalties imposed on those women with the penalties imposed on the corporate criminals who have emerged over the past eight to 10 years. It seems from the comparison that there is a need for education, to make sure that the magistrates and judges imposing penalties take into account all the circumstances to make sure there is equity in their sentencing.

The Minister said in his second reading speech that -

In developing the Sentencing Bill, consideration was given to providing a legislative basis for Aboriginal customary law.

Although I have some difficulty with that, I note that the Government has been consulting with the national Standing Committee of Attorneys General.

In the main our adult and juvenile detention centres have as a majority of their population Aboriginal people. With the agreement and willingness of everybody we should be able to find some way through the system so that Aboriginal customary law can be acknowledged. That will go a long way towards the reconciliation process. It may be a way of ensuring that rather than imprisoning Aboriginal people for lengthy sentences, Aboriginal customary law can be imposed on Aboriginal people who have gone off the rails.

The Minister states that the new Bills will provide an increased range of sentencing options. I am pleased about that. I note the new types of sentencing that will be available for juveniles, in particular. Alongside these new sentencing provision options we should see an increase in the range of programs being developed for young people to access, particularly rehabilitative rather than punitive programs. I would like the Minister to tell us a little about those programs. From my work as a member of the Legislation Committee, which inquired into juvenile justice, it is evident that this State lacks a variety of rehabilitative options that magistrates could utilise in the long term process of getting a young person back on track.

A lot of work needs to be done with Aboriginal communities. Aboriginal youth make up 60 per cent of the juvenile detention centre population. In many cases they are taken from their own communities in the north of the State, largely because those areas do not have juvenile detention centres. Once they get into the system down here they have virtually no access to family. They rely on the Aboriginal visitors scheme, which is a good scheme. However, we should look at other options and rehabilitation programs to make sure these people are given opportunities to look at themselves and to work with empathetic and reasonable people who will help them back onto the right track. Placing them into the confines of Riverbank or Longmore will not reform them; they will leave those places as proficient criminals. We should concentrate our attention on increasing the range of programs along those lines.

The Minister also says that the objective of the new sentencing provisions is to strengthen the protection of the community. The Minister claims that this legislation will simplify the sentencing process. Will the Minister enlarge on how the simplification of the sentencing process will make that occur? The Minister states that one of the Government's key objectives is to ensure that victims, the community and offenders understand the effect of sentences.

[Questions without notice taken.]

Sitting suspended from 3.45 to 4.00 pm

Hon CHERYL DAVENPORT: The Minister's second reading speech states that the Government will ensure that victims, the community and offenders understand the effect of sentences. The Minister has made a sweeping statement and one hopes it will be achieved. I am interested to know what sort of mechanisms the Government has in mind to achieve that objective.

The Minister's second reading speech refers to the right of the victim to have his or her voice heard within the justice system. It will be a useful outcome if it can be achieved. I clearly remember when the Standing Committee on Legislation investigated the New Zealand system that one of the real positives of the family group conferencing principles was for the victim to work with the offender. That system provided positive outcomes. In some instances the victim came to understand the reason the offender committed the offence and felt moved to assist that young person. In some cases the victim was able to offer the offender an apprenticeship or job which assisted in facilitating reparation for a range of offences that had occurred. I support the notion that victims should participate in the process.

However, I caution that in some instances that will not always be possible. I hope those issues will be borne in mind before victims are able to participate fully in the process. I spoke earlier about the need for the expansion of a solid range of rehabilitation options, particularly for young people who commit less serious offences. I reiterate the strong need for that in the case of young Aboriginal offenders. I am interested to know of any options the Government may be considering and whether they would be provided through government and/or non-government programs. I imagine they will involve a combination of both government and non-government sector programs. However, a large number of services young people might be able to access in order to achieve rehabilitation are being cut.

I was disturbed to learn during the Estimates Committee debate last week about the number of youth programs that have received significant funding cuts from the Ministry of Family and Children's Services. I hope that all the funding from the Government is not directed through only the Ministry of Justice but that it is spread across the board. Hand-in-hand with rehabilitation goes prevention. My Government was at fault in not providing sufficient preventive programs, and there are still insufficient programs under the Court Government.

One of the other detention options with which I have great difficulty, and which is proving to be ongoing, is the work camp option at Laverton, at which no juveniles are in custody. I wonder how the Government will deal with this problem given its promise that the work camp would rehabilitate juveniles. The only young occupants are ages 18 to 21. It seems that considerable funds have been spent and at this time no people are accessing that facility. Discussions have taken place about some clauses being referred later in this debate to the Joint Standing Committee on Delegated Legislation. I hope that will include part 14 of the Bill on indefinite imprisonment and the containment of serious and repeat offenders for the protection of the community so that a full and proper discussion covers that area. Obviously it would not be ideal to create a situation where a great number of offenders serve indefinite custody. That would fill up our detention centres. As the Minister for Finance will be aware, prisons are very costly to maintain.

In the second reading speech the Minister said that the court may call for mediation reports in making judgments on sentencing offenders. By whom and for what reason will

those mediation reports be conducted? In his speech the Minister claimed that the agencies have achieved an outcome of 115 cases through this method. What is the number of young people involved in that process compared with the number of adults? The second reading speech refers to the question of diversion in part 10 of the Bill. The final sentence reads -

It is anticipated that through these orders -

That is; the intensive supervision orders -

- the diversion in appropriate cases of less serious offenders from imprisonment will also be achieved.

It has been drawn to my attention that some education processes are necessary for, I venture to say, both the police, police prosecutors in particular, and the Children's Court magistrates. I will also place a range of questions on notice seeking information on both cautioning and diversion through the juvenile justice teams by both the police and magistrates. When I asked the Commissioner of Police last week during the Estimates Committee debates what programs were being implemented to educate police about diversion to the juvenile justice teams, he said that the problem was not with the police, but with some of the magistrates who were not achieving that outcome. It has been drawn to my attention since then that there is a problem with not only juvenile justice teams but also cautioning. Apparently young people who might well be cautioned by the police are receiving conditional cautions. I am very concerned that police could say to young people that if they do not attend a lecture or agree to a night-time curfew on weekends they will not be cautioned, they will be charged. I cannot see anywhere in any legislation where conditions should be placed on the cautioning of young people. This merely causes a deterioration in the relationship between the young people and the police and results in young people becoming further embroiled in the justice system. That needs to be looked at, although I recognise that this is probably not the right debate in which to talk about it. Once a young person gets into the system, sentencing down the track becomes a much more important part of the process.

Juvenile justice teams have some problems. Senior bureaucrats in the Justice Ministry have drawn to my attention the fact that young Aboriginal people are not being diverted in any great number to these teams. Hon Peter Foss will remember that, when we were in New Zealand, I wondered how we could apply the principle of family group conferencing to Western Australia and whether the system would bring about cultural problems for Aboriginal people.

Hon Peter Foss: We discussed that in connection with much of the law that must be overcome first.

Hon CHERYL DAVENPORT: I do not see it being the total answer but there would need to be some fairly good education processes for police prosecutors and magistrates in the Children's Court.

Hon Peter Foss: They are seeking to address that problem, but the answer lies in education.

Hon CHERYL DAVENPORT: I was not very happy with the response given to me by the Commissioner of Police when I posed my questions. His view was that it was not the responsibility of the police, but the magistrates. I do not think that is the answer. There are problems in both jurisdictions. I hasten to add that I do not want to tell the magistrates how to do their job in the judicial system. However, this is a new system. From my reading of the reports on the changes to juvenile justice in New Zealand, six years down the track there is starting to be some very positive figures in the outcome of the process.

Hon Peter Foss: The difference is that in New Zealand the process came out of the Maori community, whereas here the process is being imposed on the Aboriginal community; therefore, there is not the same instant trust in the system.

Hon CHERYL DAVENPORT: Although there is evidence of success in conferencing

for non-Aboriginal young people, there does not seem to be the same sort of success for the Aboriginal community. We well know just how many Aboriginal people make up the populations of our detention centres. It seems that, for all of the right reasons, more emphasis must be placed on the whole education and training process in both those areas if we are to get those outcomes which will lead to fewer people arriving in the justice system.

I refer to section 119 of the Young Offenders Act - I must confess that I do not understand it properly; I am not sure anyone would - and the work camp at Laverton. Young people are not agreeing to go to Camp Kurli Murri. The population of the work camp is made up of 18 to 21 year olds. We need to look at how we can overcome this reluctance. If we have a purpose-built facility for rehabilitating juveniles, in particular, we must work through a process to persuade them to go there.

Hon Peter Foss: Part of the problem relates to the legislation covering the rehabilitation of kids. Some changes in that might be appropriate.

Hon CHERYL DAVENPORT: I note that work has begun on the Canning Vale juvenile detention centre. During our visit to New Zealand I was impressed with the detention centre program in Auckland. I had previously visited Longmore Training Complex and Riverbank Detention Centre and I knew how horrible they were. I felt that we would visit the same sort of facility in New Zealand; however, I was pleasantly surprised at the way that centre operated.

Hon Peter Foss: The lockup part was the same. The difference was that there was no-one in it.

Hon CHERYL DAVENPORT: The separation of the age groups was also very positive. There was a care and protection area for 10 to 13 year olds, while the 14 to 17 year olds were in the youth justice section. One of the problems in detention centres is the mixing of the age groups. That is where kids learn the wrong things. It is a university of crime. The kids come out more aggressive and far more skilled in what they do. In the context of the sentencing provisions, I do not know how to find a way to produce reforms within prisons; however, we must try to tackle the culture inside the detention centres.

Hon Peter Foss: That is where the work camp has been good. It has been an opportunity to start a new culture.

Hon CHERYL DAVENPORT: Aboriginal kids from the north of the State continue to be brought to Longmore and Riverbank. Taking them to Laverton is not much different. The kids have no contact with their communities. The detention centre is far from the family and community; they are isolated. They get the wrong vibes and the whole process starts again the minute they get out. I am not sure how to overcome that, but we should be given a chance to reform the process in that area. In New Zealand all young people had access to an education program designed for their appropriate level.

Hon Peter Foss: If you asked people at the work camp, they would say that there is need for some change. The ones who have been there have been very positive about it.

Hon CHERYL DAVENPORT: I am very pleased to hear that. I would like to have the opportunity, having seen a positive system operating - maybe the very best was put on for us during our visit - to try to emulate the New Zealand process. I am not sure whether when the kids get close to coming out of the centres enough emphasis is placed on the notion of working with families to keep the kids on track.

Hon J.A. Scott interjected.

Hon CHERYL DAVENPORT: That was very obvious in New Zealand. Many senior positions in the detention centre system, the welfare system, which has responsibility for juvenile justice, and the courts are held by Maori people.

Hon Peter Foss: There was a 15 year lead-up. It did not just come along one day as a good idea.

Hon CHERYL DAVENPORT: I acknowledge that we must work on this.

Hon Derrick Tomlinson: In New Zealand there was a corresponding integration of families, but in Australia we are seeing the disintegration of families, particularly Aboriginal families.

Hon CHERYL DAVENPORT: Yes. I cannot stress enough the need for families and communities to work with those kids, and that is why we are starting to see some success with the juvenile justice teams. However, that is not happening with Aboriginal kids, so something is not right. The problems that we anticipated are starting to become evident, but we should not give it away for that reason, because it is a good principle.

Hon Peter Foss: Mind you, it has not solved the crime problem, and that is the other problem we have got. We want to solve the crime problem as well as not dehumanise juveniles.

Hon CHERYL DAVENPORT: Yes, but some of the cutbacks that we see in the youth and community sectors are great cause for concern. The Minister is dead right; unless we deal with the basic problem of how families live together and how communities and families interact, the crime rate will continue to increase. I flag that as one of the positives that I saw in New Zealand, and there is potential for that to be taken into account and implemented in this legislation.

A concern still exists in regard to the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody. One area that was touched on in great detail in that report was the sentencing powers of justices of the peace. That problem is still occurring in the north of the State. At the briefing that the Ministry of Justice set up for the Opposition, I mentioned the need for magistrates rather than justices of the peace to impose sentences in remote areas, and the bureaucrats harked back to the notion of geographic isolation. That is not good enough. We all know the number of people in remote areas, particularly Aborigines, who have died in custody. There is no doubt that the transport services that are now available in this State make it possible for a magistrate to get to any one of these remote communities within 24 hours. It is not good enough to say that geographic isolation means that justices of the peace should still impose sentences. That will perpetuate the increase in the number of Aborigines who are sentenced to prison for offences for which they might not be sent to prison by a magistrate. I hope the Government will take that as a criticism made in good faith. If we do not tackle these issues, we are thumbing our nose at that royal commission, which cost a lot of money at the national level.

Although we have not yet agreed to it formally, I am pleased that some of the clauses of the Sentencing Bill will be referred to the Legislation Committee, because that will provide a real opportunity to ensure that we achieve equity in sentencing for both juveniles and adults.

Hon Peter Foss: That Bill does not deal with juveniles. We will not solve the juvenile problem in that Bill.

Hon CHERYL DAVENPORT: I am sorry that is not the case. Nevertheless, the opportunity exists to look at it. Had the Legislation Committee had the Young Offenders Act for the amount of time it should have had it last year, we might have ironed out some of the problems that are now becoming apparent with that legislation. I am pleased the Government accepted the five year review clause in that Bill, because in five years we will have a good indication of what is not working and the opportunity to revisit that legislation. On that basis, I am pleased that there is now a consolidation of the sentencing laws, I wish the Legislation Committee well in its deliberations, and I support the Bill.

Debate adjourned until a later stage of the sitting, on motion by Hon Tom Helm.

[Continued next page.]

MOTION - SENTENCING BILL

Referral to Standing Committee on Legislation

HON N.D. GRIFFITHS (East Metropolitan) [5.06 pm] - by leave: I move -

That the Sentencing Bill 1995 be referred to the Legislation Committee for consideration of clauses 3(3)(a), 3(3)(b), 14(3), 15, 16(2), 16(3), 22(5), 23(4), 27, 28, 29, 30, 38, 51, 58, 59, 87, 98, 99, 100, 101, 113, 122 and 144 and report, but that consideration of the second reading debate of the Bill by this House continue notwithstanding such referral.

HON PETER FOSS (East Metropolitan - Minister for the Environment) [5.07 pm]: The Government supports this motion. We believe it will be a quicker way of dealing with the matters raised during the second reading debate, and that is the earnest hope of all concerned. We have not put a date on it, but I put on record that we hope it will be as soon as possible.

HON DERRICK TOMLINSON (East Metropolitan) [5.08 pm]: I take note of the Minister's hope. I also share the ironical grin that Hon Cheryl Davenport has now recorded in *Hansard*! It is absolutely essential that it be understood clearly that the Legislation Committee is being asked to consider and report, but that no time limit has been put on that. The reason for the shared irony between Hon Cheryl Davenport and me is the experience we had with the Young Offenders Act when by a decision of the House it was returned to the House before the committee had properly considered it. Therefore, I suggest that we specify a date in the motion.

Amendment to Motion

On motion by Hon Derrick Tomlinson, resolved -

That the motion be amended by inserting after the word "report" the words "not later than 12 October".

Motion, as amended, put and passed.

SENTENCING BILL

SENTENCING (CONSEQUENTIAL PROVISIONS) BILL

SENTENCE ADMINISTRATION BILL

Second Reading - Cognate Debate

Resumed from an earlier stage of the sitting.

HON TOM HELM (Mining and Pastoral) [5.11 pm]: My remarks will cover two areas. I congratulate Hon Nick Griffiths and the Minister handling the Bill for agreeing to allow the Sentencing Bill to go to the Standing Committee on Legislation. It will again prove the worth of the Legislation Committee. It reflects some of the concerns expressed by the President last night when he pulled up Hon Nick Griffiths on a number of occasions for dwelling on some of the clauses in the Bill. He suggested to the member that the time to debate the clauses was in Committee. His observation was correct. Nevertheless, the ability of the Legislation Committee to consider clauses of some concern is a useful move and will serve us well. This legislation is far more acceptable to me than the Young Offenders Act, the Crime (Serious and Repeat Offenders) Sentencing Act, and the Bills that were put together on this matter by my party when it was in power. Of course, everyone would like to improve some areas; however, in the real world these things do not happen.

The first issue I will speak about is the need for sentencing and the proposals contained within the sentencing Bills as indicated in their second reading speeches. It remains a painful exercise for me to have to rise constantly in this Chamber and in my own Caucus room to convince my comrades in the Labor Party and my colleagues in the Chamber that we should be considering new and different concepts. Overwhelming evidence exists that prisons are not answering society's needs. We are not reducing crime. One is trying to be more macho than the other, and still our young people are being attracted to lives of crime and lives that are less than we desire for them. Not only young people, but also older people are affected. The number of younger people who are incarcerated is not decreasing. As Hon Jim Scott said yesterday in another debate, the more roads we build, the more cars we will have, the more space will be available for driving the cars, and the

more vehicles there will be to fill those spaces. So it is with gaols, detention centres, and boot camps.

Until recently Western Australians looked overseas for guidance on how to treat our crime wave and administer justice. We looked at the examples in places that had similar cultural backgrounds to ours. However, we no longer need to do that. We have experimented as much as possible with the human condition in this State and elsewhere. I was particularly ashamed of the action of my own party in response to the events that brought about the Crime (Serious and Repeat Offenders) Sentencing Act. Nonetheless, that experiment took place. The coalition Government has learnt that to a large extent the big stiff has not necessarily brought about the solutions the Labor Party was looking for, and it is trying a different approach.

I join with my colleague Hon Cheryl Davenport in congratulating this Administration. Judges and others who have the right to sentence, including justices of the peace, now have a wider option to administer sentences. At least the courts have the ability to ensure that the time fits the crime. Nonetheless, the bottom line is that it is time: People must be incarcerated. We are moving away from the rehabilitative nature of prisons and detention centres.

Hon N.D. Griffiths: They never had any.

Hon TOM HELM: I know. However, a myth was about - perpetuated by my own party members as much as anybody - that if we could imprison these people, mostly young people in this case, and keep them in detention centres for a long time -

Hon Peter Foss: We called them correctional centres; that made all the difference.

Hon TOM HELM: Were they called that under the last Administration?

Hon Peter Foss: Yes; your people brought it in.

Hon TOM HELM: It was thought that if we locked them up and gave them lessons in fixing car engines or gave them literacy and numeracy skills -

Hon Peter Foss: Better to understand how to hot wire the motor.

Hon TOM HELM: That is my point. Adequate money, resources or effort was not spent in any rehabilitative programs, and those that existed did not provide the results people were looking for. There are not fewer car chases, fewer people being locked up, or fewer break-ins and other offences that are attributed to young people. We found out from that exercise that that was not the way to go. These sentencing Bills reflect the knowledge that we picked up from history. Surely we have a duty. I have said in this House that my house in Port Hedland was burgled seven times.

We are accused of being bleeding hearts and do-gooders who really would not know what it is like in the real world.

Hon N.D. Griffiths: You must have a good insurance company.

Hon TOM HELM: That is the other thing; we could not get insurance in Port Hedland.

Hon N.D. Griffiths: I am not surprised.

Hon TOM HELM: We need an insurance company. Although the record shows that incarcerating people is not the way to proceed, people such as Howard Sattler and others still pursue the "hang, draw and quarter them" line. I understand people's anger, but the evidence is that such attitudes will not prevent one break-in, one assault, or one drug or alcohol induced attack on an innocent pensioner, child or woman.

We must consider the reasons that were put to us by Hon Cheryl Davenport, who has researched the matter not only in Western Australia but also throughout Australia and New Zealand. Every jurisdiction in every country accepts that it is a multi-faceted problem. If it can be pinpointed, the problem will be tracked back in every case to family breakdown and the fact that the family unit and the societal strength that we once had no longer exist. I refer to people's ability to relate to a peer group, or to go to a favourite auntie, gran or someone else in the close family unit. Perhaps it is for a good reason that

that does not exist any more, but there appear to be no research funds or facilities to look for an alternative. No-one can bring back the old style family unit - it cannot be brought back. Where it has broken down, there is probably a good reason for it, or a reason that has suited the family unit concerned. It is not for us as politicians or for legislators of any kind to expend funds to try to build a false family unit. Therefore, there must be other support organisations.

I have been to a few seminars and conferences where those matters have been discussed. No one has compared the cost of not building any more buildings in which to incarcerate people with the cost of support units that have recently suffered severe budgetary cutbacks. I do not know what the difference is in the cost of insurance, the cost of replacing things that have been damaged or destroyed, or the cost of incarceration versus that of funding support agencies. Some day somebody will find out. That will be another argument that people can use to break away from our fixation with locking up people.

I again refer to the seven break-ins at my house in Port Hedland and the reason that I should feel as aggrieved as anybody at society's inability to prevent those burglaries. I remind the House of my background. I come from a slum area in the poor city of Liverpool. I am very proud of that. Many of my colleagues and school friends have served time in prison. Some of them were actually sentenced to the birch on the Isle of Man and were physically punished more than once for fighting and various antisocial activities on the Isle of Man. Some people say, "Cane them, whip them, send them to a boot camp where a sergeant with a crew cut will scream in their ears - that will teach them." In my experience, such treatment did not teach people who were given the cat o'nine tails or the birch on the Isle of Man. They still continued to fight and get drunk.

Hon Peter Foss: Boot camps work on the basis of trying to break down people and then starting to build self-esteem. It might seem a small difference between a boot camp and a work camp. The theory is to build self-esteem, not to discipline people.

Hon TOM HELM: Does the Minister have any more stories that he would like to tell us? Is he asking us to believe that a work camp is not as disciplinarian as a boot camp?

Hon Peter Foss: The difference behind the theory -

Hon TOM HELM: We are not talking about the theory, we are talking about the reason that they are there.

Hon Peter Foss: I have discipline in my house, but it is totally different. In fact, I do not have to do any disciplining; my kids happen to be very well behaved without it.

Hon TOM HELM: I am sure that some American marines go to boot camps that have no sadistic sergeants. However, I am sure that other marines go to boot camps that have sadistic sergeants. It would not matter to us whether we went to a boot camp or a work camp if there were sadists there. They are the ones who are successful.

Hon Peter Foss: If you don't have sadists and you have people whose interest is in building people's self-esteem, there is a difference.

Hon TOM HELM: We shall discuss boot camps; they are an interesting concept.

Hon Peter Foss: There is a difference between boot camps and work camps.

Hon TOM HELM: The Minister would break down a person's personality and try to rebuild it in the mould that is most desirable for society.

Hon Peter Foss: That is a boot camp.

Hon TOM HELM: Right. Or the Minister would send them to a work camp where they learn discipline and how to do something useful with their lives on a farm or whatever - it does not matter. Are those concepts relevant to their lives outside?

Hon Peter Foss: Yes. One of those people's biggest problems is self-esteem. One of the problems that many people have in terms of self-esteem is not knowing the boundaries. That is a great creator of insecurity.

Hon TOM HELM: So the Minister would have a camp - whatever name we give it - to build self-esteem for those people?

Hon Peter Foss: I could give another example. The *STS Leeuwin* is being used but not as a work camp. There is a supportive atmosphere in which people are taught new skills that they have never seen before. That has worked very well. People have used it for children with serious repeat offending backgrounds. They found them a job. It has worked very well.

Hon TOM HELM: After they have been to the *Leeuwin*?

The DEPUTY PRESIDENT (Hon Barry House): Order! I ask the Minister to leave the remainder of his examples until he sums up.

Hon TOM HELM: I am surprised that the *Leeuwin* takes on recidivists. That is great. I thought that it would take snotty-nosed kids like mine and the Minister's - those who have a reasonable chance of a good break in life - and leave the kids who have had a hard time. I did not know that the *Leeuwin* took kids who had such problems. I thought that it might take kids with "acceptable" problems rather than repeat offenders.

Hon Peter Foss: I do not think that they are necessarily violent.

Hon TOM HELM: If someone who goes to one of those places lacks self-esteem, it would be difficult to build permanent self-esteem.

Hon Peter Foss: They find them a job when they come out.

Hon TOM HELM: They need more than that. They need self-esteem, a job and support.

Hon Peter Foss: Agreed.

Hon TOM HELM: After these people have been through the system they need some support. That is where the system falls down. There is consensus among members about the solutions, but the concept of support after they have served their sentences is not politically popular. I do not know how the Minister gets on in his party room on this issue.

Hon Peter Foss: Some people think it is wrong to send these people on the *Leeuwin* because they would love their kids to go on it but they do not have the chance.

Hon TOM HELM: Exactly. The kids in Port Hedland who are at risk of becoming offenders go to camps and do abseiling, and other kids and their parents are wondering what they can do to get those opportunities. Some of the kids must do their time first in Riverbank or some other detention centre in Perth far away from their families. Almost invariably, those kids are black. The chances of their getting support after doing their time is negligible. It is getting worse because there are not enough bleeding hearts and do-gooders in the party rooms of the coalition Government to ensure funds are available to give those kids the support they need when they have finished their sentences. The chance of getting a headline in the media about diversionary programs is infinitesimal, compared with getting publicity for the opening of a boot camp, putting the *Leeuwin* in the water, or building another sail training ship. Before I joined the Merchant Navy I was given the opportunity of going to the training ship *Vindicatrix* at Sharkness. When I served in that training school in 1957, some of the people there were given the choice of going to gaol or going to the training ship. Society thought that if those young people were put into a situation where there was discipline with a military-type training program, involving activities such as climbing masts, splicing ropes and tying knots, they would become acceptable members of society. Those fellows who were nutters when they went into the training school, were nutters when they came out. The only difference was that they were merchant seamen nutters. Whether or not they eventually went to sea, they did not last long and many ended up in gaol because they received no support when they had finished the course.

There are two major aspects of the sentencing procedures. There must be acceptance of the fact that the world has changed and many people no longer have a comfortable family support system which is reflected in society's support system. I can remember

worshipping heroes as a child. I remember the copper who gave me a kick up the bum when I was young. I can remember when kids could ask a copper what the time was. Since I have been in Australia - it is more prevalent here than it was in Liverpool - I have experienced the war between young people and the police. It is frightening. If we do nothing to break the them and us mentality, and the deep distrust young people have for the police, it will remain a major part of the problem.

I have been to the briefings on police matters given by Police Commissioner Bob Falconer for members of the Labor Party. Commissioner Falconer keeps saying he is not a politician, but I think he is the best politician who has ever been a Commissioner of Police. Some of the policemen on the television programs look good, but he matches most of them whether they are real police commissioners or just film stars.

Hon N.D. Griffiths: Do you think Wiese and he should swap?

Hon TOM HELM: I consider Bob Wiese to be a friend, but he cannot hold a candle to Commissioner Falconer as a politician. Perhaps we need that film star image and a charismatic style of policeman to change the kids' attitudes and to get away from the adversarial nature of the Police Force. The Commissioner of Police has spoken on a number of occasions about the police service, and a number of members refer to the police service. However, in the real world it is called the Police Force.

Hon N.D. Griffiths: It is a force because it has the capacity to lawfully use force.

Hon TOM HELM: Although the Police Force can still be lawfully used to make people do things they may not want to do, at least 50 per cent of the work of the police is in the community service field. We were advised at the latest briefing with the commissioner about the desert patrol. I read an article in the *Sunday Times* last week about the policemen who travel from Laverton, Halls Creek, Newman and Kalgoorlie into the desert region on 10 day patrols. They go to all the communities, have a cup of tea, talk about gun licences and motor vehicle licences, serve summons and so on. They do their police work at the same time as they do community service work. That patrol is welcomed by those remote communities but I recognise that it is not based solely on police work. There is a social side to the police function, which is exposed to those communities. If that did not happen, the only time the Aborigines in those remote communities would come in contact with the police would be when they were in town and were put in the lockup because they were under the influence of alcohol. The war between the two parties would continue.

I understand the patrol costs a small fortune to run. I know the policemen involved reasonably well, and they enjoy their work. Of course, it is a nice trip into the desert and they see many things they would not normally see. My suggestion to those who run those patrols is that in this instance the department should approach the Aboriginal and Torres Strait Islander Commission or the Aboriginal Affairs Department and seek a contribution to the funding for those patrols. I have lived for the past 15 years in the area in which these patrols operate. I have been aware of them in the back of my mind, and have felt it was an exciting and useful concept but I did not talk much about it. When I read the article in the *Sunday Times* I was reminded of how important they are, and the rumour that they may be cut steeled my resolve to make sure that does not happen. I recognise the cost involved but the police present a positive image to the people whom they visit in their own backyards. When those people leave the communities and get into trouble, as they inevitably will, they do not have an image of a policeman in their mind as an ugly, brown shirted, fascist red-neck. They will recognise that the person dealing with them is wearing the same uniform as the guy who talked to them and sat and drank tea with them. Although the cost of the patrol cannot be measured against a saving or some other dollar value commodity, I am convinced that is the way society should view the police. We should be reinforcing and promoting the view that it is a community service. We should get away from the them and us mentality of lock 'em up and throw away the key.

Hon M.D. Nixon: What about school policemen?

Hon TOM HELM: It is a brilliant concept. However, I understand that to a large extent we are losing that service. I understand the commissioner is interested in the local bobbies having more say in how they carry out police work. School policing is a brilliant concept. However, when it was introduced in the United Kingdom it was starved of funds. If this society thinks that offenders should be locked up, the police are obliged to lock them up - even Jesus Christ was locked up, because that was what society wanted. The image of a school policeman is more community oriented than a policeman in a Commadore.

How does society measure the importance of policemen being present in the high school against their not being there? They are well respected; there are no bad marks against them. We know how much their wages are, but we cannot quantify the outcomes.

Hon Derrick Tomlinson: You can quantify the change in offending behaviour by children in that school.

Hon TOM HELM: I suppose we can, but do we do that?

Hon Derrick Tomlinson: Hon Tom Helm will find that statistics are available.

Hon TOM HELM: There were riots and Ku Klux Klan vigilante groups in Port Hedland, and we saw a huge influx of police and the introduction of a school policing unit in the Port Hedland High School. The police locked away 13 kids who were identified as habitual break-in merchants, and there was an improvement in the situation. Those of us who looked on the bright side said that the change was due to the policeman's presence in the classroom environment. The cynics said the number of break-ins declined because those 13 kids had been locked away. Hon Derrick Tomlinson is right and the outcomes from the presence of the policing unit could probably be quantified, although it would have to be assessed over a long period. That argument was short-lived because over time the statistics on break-ins in Hedland did not show an improvement, even though those kids were in Riverbank. In Port Hedland the numbers of break-ins and antisocial activities involving young people are getting worse. The problem could not be put down to 13 kids. If they were the problem, they must have been very active. I am promoting alternatives to incarceration.

The Minister's second reading speech states -

Detention of young adult offenders in a facility of the kind referred to in section 119 of the Young Offenders Act 1994, such as Camp Kurli Murri near Laverton, became lawful by amendment to the Offenders Community Corrections Act 1963 pursuant to the Criminal Law Amendment Act 1994 enacted last year. The Offenders Community Corrections Act is to be repealed as a result of this sentencing package and, therefore, detention of young adult offenders in such a facility is provided in part 12 of the Bill. As stated when the Attorney General introduced this provision last year, this new form of detention has the potential to provide a necessary circuit breaker to divert some young adult offenders from re-offending.

I do not argue with that concept. However, I bring to the attention of the House the view of the Delegated Legislation Committee that that is not necessarily the case. The Delegated Legislation Committee has a disallowance motion on the Notice Paper concerning regulations under the Young Offenders Act. An argument is raging now between the Crown Law Department and the committee and its legal adviser about the legality of the boot camp at Laverton. That does not bother me. What does bother me is being told by a Minister in the other place that this boot camp is a legal entity, when this House may decide that it is not a legal entity. The Delegated Legislation Committee will be recommending disallowance of those regulations and, as a result of some evidence that we might put before the House members of this House, may determine the legality or illegality of the situation that prevails with this boot camp. It annoys me that members of the Executive decide, because they have said something, that it is so, that it is legal. The Legislative Council is not a rubber stamp for the Executive. The mere fact that committees are set up in this place suggests that we do not necessarily accept the

Executive's view on all matters. I object strongly to being told by a Minister in another place, particularly on a matter of some contention, that it is a legal entity because "it is".

If we are to keep any respect for our job, and demonstrate to people that politicians have some worth, on the odd occasion we must stand up to members of the Executive who feel because they have been elevated to the Cabinet that they have all the wisdom that the world has to offer. I suggest to members in this place that we set up committees to look at various aspects of the job we are obliged to do because we accept that we may not be the fount of all knowledge on some matters. We are saying that it would be a good idea if the Delegated Legislation Committee looked at certain areas of this package of Bills and gave the House the benefit of its perusal and its ability to collect information that may not otherwise be available.

It is a difficult exercise. That difficulty was demonstrated by Hon Nick Griffiths last night when he was pulled up by the President during debate.

Hon N.D. GRIFFITHS: The President's advice was most welcome and proper.

Hon TOM HELM: The President highlighted why we should agree to send these Bills to the Delegated Legislation Committee. The committee should look at those clauses in the cool light of day and give us its view. It may be that they are perfectly okay, and it is no secret that the Labor Party Caucus supports them. However, we have some reservations. Towards the end of the Labor Administration, laws were enacted in response to society's concerns following mass demonstrations outside Parliament. Perhaps the coalition has it right. Perhaps together we can work to get it exactly right. We may get it exactly wrong, but there is a willingness on both sides of the House to look at the problem from a different angle. We must look at the way we react to the issues of law and order, and how we react to the community's demands.

Both sides have gained in the short term from presenting what one could call more macho legislation but that has been a short term gain. I believe that society is ready to listen to the alternatives to incarceration. Society is ready to listen to the argument that if we are prepared to spend millions of dollars on building prisons, detention centres or boot camps, we should also be prepared to spend millions of dollars on developing programs that will restore the value placed on the family unit. If as a group we can make a concerted effort to support that argument at all times, I am sure that the community will follow us. That will be the politically correct and popular path to take. If we can demonstrate that we can reduce the crime figures and the rate of incarceration we will reap the benefits. I support the Bill.

HON J.A. SCOTT (South Metropolitan) [5.52 pm]: Like Hon Tom Helm I am very pleased with the genuine concern that has been expressed regarding the improvements in the process of sentencing offenders in this State. The former Government's Crime (Serious and Repeat Offenders) Sentencing Act was enacted as a result of the gross overreaction to an emotional event. Unfortunately, that seems to be the way these things occur rather than as a result of a serious study or any real analysis of the cause of crime and the best way to prevent it. Like Hon Tom Helm I believe that we are probably getting it back to front in the way that we consider ways to sentence people and gaoil them. We should look at the other side of the equation first; that is, finding out the reason that crime occurs. In many cases it is a matter of poverty, and certainly a large percentage of that can be alleviated. We have experienced a violent swing away from the glorification of youth to a situation where young people are regarded by some members of society as the worst generation. With that background it is difficult for young people to develop into worthwhile citizens, especially when they are convinced that they are not worthwhile citizens early in their lives. However, many young people are doing worthwhile things.

Today the situation is rather similar to the changes that occurred during the industrial revolution when people moved from cottage industries into factories. In the past, one parent went to work and the other stayed at home. A major change since then is that both parents work. Therefore, family life has changed radically. Whether people agree with this or not, the situation seems to be here to stay. We now need to adapt to cater for the

change. I am very concerned that with that change has come the idea that young people are potential villains, and a great number of young people are suffering as a result.

Recently I met - ironically just after meeting with the Fremantle City Council and talking about the problems of youth in that city; that topic was part of the general meeting - two young kids who live on the streets. My attention was drawn to them because they were involved in a fairly antisocial act, smashing a bottle on the road. I objected and asked them why they were doing it. They proceeded to tell me their story. I will not use their exact words, but they said that they were extremely angry. I asked them what they were angry about, and they said that, for a start, they had nowhere to sleep that night. I cannot remember whether one child was five or eight years old. His mother could not cope, and tried to get rid of him by stabbing him with a kitchen knife. From that stage his life went downhill. He has spent time in institutions and so on. It is a fairly difficult situation for young people to face. Through no fault of his own, his mother - I assume she was a single mother - was unable to cope with her life, and certainly not with his.

Hon N.D. Griffiths: Why do you assume that she was a single mother?

Hon A.J.G. MacTiernan: I was about to ask the same question.

Hon J.A. SCOTT: I assumed that, from other parts of the discussion. I do not want to go into every aspect of it.

Hon N.D. Griffiths: I interjected because many single mothers do a very good job. I was concerned about how your comments could be interpreted.

Hon J.A. SCOTT: They should not be interpreted in that way. That was my impression because he made no mention of a father during the conversation, and he said how his mother could not cope.

The other child was a girl aged 15 years whose mother had left a relationship in New Zealand and come to Australia with a new partner. The girl had followed because she had trouble getting on with her single parent father in New Zealand. She had been beaten up and sexually assaulted by the mother's partner so she was on the street and had no idea how to access any income or help. It is an absolute disgrace that this can occur in such an affluent city. To make another point as an indication of the way crime occurs, I was told that the clothes the children wore were stolen because they had no other way to get clothes. I could not condemn them for having stolen the clothes.

[Debate adjourned, pursuant to Standing Order No 61(b).]

ADJOURNMENT OF THE HOUSE - SPECIAL

On motion without notice by Hon George Cash (Leader of the House), resolved -

That the House at its rising adjourn until on Tuesday, 19 September.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON GEORGE CASH (North Metropolitan - Leader of the House) [6.02 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Easton, Brian Mahon, Ministerial Officers Inquiries Allegations

HON A.J.G. MacTIERNAN (East Metropolitan) [6.03 pm]: I want to use the opportunity of the adjournment debate tonight to raise some of the issues that we sought unsuccessfully to raise earlier today. I do so because these issues are of profound concern to the Opposition. We hope that by canvassing some of them here tonight we may encourage the Government to appreciate the seriousness of the matters and to allow them to be debated more fully as soon as Parliament resumes. The allegations contained in the affidavit that we have discussed in this House on previous occasions are very serious. Given that those allegations have been sworn by a solicitor, who is an officer of

the court and who has a career on the line if the contents of the document are not true, this evidence needs to be treated with utmost seriousness.

I will set out some of the things we learn from an examination of the allegations contained in that affidavit. We learn first that from at least October 1993 officers of the Premier's office and the office of a Minister - I presume now on the basis of an answer today and from other information that we have had that was indeed the office of Minister Foss - were engaged in investigations concerning the affairs of Brian Mahon Easton. We have been told before today that it was not a question of any investigation being carried out by officers from the offices of the Premier or Minister, but that certain allegations had been made by unnamed and unspecified members of the public, and those had been passed on to the appropriate authorities for investigation. I do not believe that that explanation has any credibility whatsoever. The affidavit contains very clear allegations that there were investigations. It was not simply a question of the receipt of documents or the receipt of allegations, but of investigations of a general nature by those officers. We are told that in November 1993 they were "at a raw material stage" but that it was the officers' considered hope that in a short time they would have a full picture.

We also find that if the allegations are true they show that members of the Premier's staff initiated contact with the solicitors of *The West Australian* to assist the solicitors in preparing a case and, indeed, a new defence against Brian Mahon Easton. We are told that not only did they initiate that contact and promise information but also subsequently they gave it. We are told that those officers took it upon themselves to attend the offices of the solicitors of *The West Australian*, Parker and Parker, and discuss the various cases and charges that might be made against Brian Mahon Easton. We know that occurred in the first instance in January 1994. There was a subsequent visit by the staff from the Minister's office to the solicitors of West Australian Newspapers to provide further information and have further discussion about cases that could be made against Brian Mahon Easton. It seems to be extraordinary that we have staff members who are engaged to assist a Minister firstly undertaking investigations of this nature and secondly - this is a matter of utmost concern - then using that information and taking it upon themselves to initiate contact and providing that information to the solicitor for one side of a civil dispute. That is despicable and a grave abuse of Executive power.

We need to scotch very quickly this idea that it was a question of allegations being made to those officers which they then passed on to the appropriate authorities. We know from the press release issued by the Premier that those matters were not referred to the Director of Public Prosecutions on or about 10 March 1994. We know from other information we have that the investigations had probably been going on for some time before then. At the very least, on the basis of the allegations before us today, we know those officers had the material, were investigating the material and passing the material around for a good five months before they took it upon themselves to hand it over to the Director of Public Prosecutions. I would like to know what special expertise those persons had to embark on the investigation and what justification could possibly be made for those officers to undertake the investigation over a period of some five months before they saw fit to pass the material to the appropriate investigating authorities.

Hon Kim Chance: What authority did they have?

Hon A.J.G. MacTIERNAN: Yes indeed. They must justify using their position to advance the case of one side of a civil litigation.

Another item of concern is a reference in the document to the role of a journalist and investigator. The journalist in particular has clearly close connections with members of the ministerial staff because it was that journalist who first established the liaison between the ministerial staff and the solicitors of *The West Australian*. We also know from the affidavit that the journalist then in some way or other appointed, engaged or directed an investigator to work with those solicitors to assist them in preparing their case against Brian Mahon Easton.

This case was directed towards impugning the reputation of Brian Easton. I have great difficulty with the idea of a newspaper trying to make the case that the character of the

person against the newspaper in a defamation action is of such low repute that there can be no finding of defamation. It is extraordinary that a news organisation could impugn the reputation of an individual and then use the fact that that reputation had been impugned to defend itself in a civil action. We are fairly sure that the investigator was Paul Gallagher. Information was passed to us today from the royal commission which shows that Paul Gallagher, who was not employed by a government agency, was given access to the files of the Public Service Commission and to the files relating to Brian Mahon Easton. That is another very serious allegation.

HON GEORGE CASH (North Metropolitan - Leader of the House) [6.11 pm]: In response to the comments of Hon Alannah MacTiernan I want to take this opportunity to make some comments of my own about this matter. First, I confirm to the House that, to the best of my knowledge, the answers provided to me for question 1158 and question 81 of 5 April 1995 and questions 97 and 98 of 6 April 1995, accurately reflect the facts. I have not seen the affidavit to which Hon Alannah MacTiernan refers although I am aware of its existence because she has advised the House that it is a document which was lodged at the Supreme Court in respect of a civil action. With regard to her comments about what she now refers to as the allegations contained in the affidavit, it would clearly be inappropriate for me to comment or debate the substance of the affidavit as I do not have knowledge of it. Given that it is a document which is lodged at the Supreme Court in support of a civil action, the substance of the document will no doubt in time be subject to court proceedings and be challenged or verified at that time.

With respect to any evidence given to the royal commission, it would be inappropriate for me to comment or debate that evidence, that is, the matters raised by Hon Alannah MacTiernan in particular or other evidence, because quite clearly the royal commission has not completed its investigations and it has not made a report at this stage. If we were to move motions in this House challenging evidence given to the royal commission on a daily basis, clearly there would be all sorts of motions. There could be motions on the evidence given by former Labor Ministers, current serving members, press officers or anyone else. That would be a totally untenable situation. As such, I confirm once more that I do not intend to comment on the evidence that any witness has given to the royal commission.

With regard to the inquiry to which Hon Alannah MacTiernan referred, I refer members to question 1158 of 5 April 1995. This was an eight part question from Hon Alannah MacTiernan to me, representing the Premier. I will not read the whole of the answer, because that is unnecessary. However, it concludes by stating -

The Premier's office is contacted periodically by members of the public who make allegations of misconduct against public officials or former public officials. It is common practice for the Premier's office to refer these allegations to the appropriate authorities. In the case of Mr Easton it is a matter of public record that in the first instance the allegations of misconduct led to a report into the affairs of the AHDA under the auspices of the Minister for Aboriginal Affairs, and that subsequently that report and all of the supporting material were given to the DPP.

Hon A.J.G. MacTiernan: But that investigation was not supposed to be by members of the ministerial staff. In fact, I believe it was the Stanley brothers who conducted that investigation.

Hon GEORGE CASH: I am not in a position to know who conducted the investigation. I do not run the Premier's office or the Premier's staff. Equally, I do not run any other Minister's office or staff. However, I take some responsibility for the staff within my portfolio areas.

On 2 December 1993, as part of a ministerial statement, the then Minister for Aboriginal Affairs stated -

It has been brought to my attention by the senior officers in the Aboriginal Affairs Planning Authority that serious irregularities may have existed under the previous

Government in relation to the administration of a small number of programs currently within my responsibility. These allegations go to the heart of accountability in government - a principle to which this Government is committed and of which members opposite often speak. They relate to the failure to properly acquit public funds and the misuse of public funds. The fact that these alleged irregularities occurred under the previous Government is irrelevant. Most members and the taxpayers of Western Australia understand that this State's financial resources are limited at a time when the need for those resources in the area of Aboriginal affairs is great.

I wish to inform the House that I have ordered an internal investigation into those alleged irregularities within my portfolio. When those investigations are completed, I will report the findings to the House.

Consequently, on 10 March 1994, the Minister for Aboriginal Affairs made a statement. I am not sure whether it was made in the House. If it was not, it was made in the form of a press statement.

Hon A.J.G. MacTiernan: It was a press statement.

Hon GEORGE CASH: I stand corrected. The statement began -

A report into the activities of the Aboriginal Homes Development Association Inc (AHDA) has been referred to the Director of Public Prosecutions.

Aboriginal Affairs Minister Kevin Prince said today the report of an internal investigation into the Association raised considerable concerns about the sorts of activities being financed by government funds, which were allocated for other purposes.

Mr Prince said the investigation identified numerous examples of AHDA activities and expenditures which were in breach of grant conditions.

These included:

the issuing of loans to entities associated with the management of the AHDA;

the use of funds to pursue contracts for which no benefit was returned to the AHDA;

the establishment, by the AHDA, of subsidiaries which received benefits from activities funded by the AHDA;

irregularities concerning consultancies, travel and termination payments involving AHDA officials.

Mr Prince said the original funding approval given by Dr Lawrence, who was then Minister for Aboriginal Affairs, was to establish the AHDA to undertake a study into Aboriginal housing needs.

"Given the purpose of the grant, it is surprising that Dr Lawrence did not question the propriety of some of the publicised activities of the AHDA," the Minister said.

I will not read the rest, I will make the document available to members.

Hon A.J.G. MacTiernan: But it is not particularly relevant. It could make the situation worse.

Hon GEORGE CASH: I raise that matter to show that there were clearly investigations into the AHDA. As I understand it, they flowed from a statement made by the then Minister for Aboriginal Affairs.

Hon A.J.G. MacTiernan: Were those investigations carried out by staff from the Premier's office?

Hon GEORGE CASH: I am not in a position to know the answer to that question. If Hon Alannah MacTiernan wants the information, I will endeavour to discover it in due course. If she puts questions on notice or takes whatever action she needs to take to obtain that information -

Hon A.J.G. MacTiernan: You know that you do not get reports of that nature from ministerial staff.

Hon GEORGE CASH: That is a statement by Hon Alannah MacTiernan and I will not support it. That is her view and I am not suggesting that she is right or wrong. I am saying that I do not know the facts, so I cannot give a factual reply. In due course I will attempt to get answers to questions in relation to various matters. However, I want to put on the record that, first, questions have been asked and they have been answered to the best of my knowledge and recollection. Secondly, it would be inappropriate for me to comment on the content of the affidavit, which I have not seen. Those matters can be challenged in due course during the civil action. Thirdly, it would be inappropriate for me to comment on the evidence of witnesses at the royal commission. Fourthly, an investigation was conducted into the activities of the AHDA and, as a result of that investigation, a report and material were passed to the Director of Public Prosecutions for his further action.

In respect of Brian Mahon Easton, it is my understanding that some charges have already been preferred against him in respect of certain matters. However, I cannot tell the House at the moment, because I am not sure -

Hon A.J.G. MacTiernan: In view of the fact that the Leader has not seen the document, I seek leave to table it in order to assist him.

Leave granted. [See paper No 589.]

The PRESIDENT: The debate is concluded. The question is that the House do now adjourn.

Hon KIM CHANCE: Mr President, I wish -

The PRESIDENT: The debate is finished.

Hon GEORGE CASH: I moved the adjournment. I always get caught out. People forget that I would like to say some things in this House.

The PRESIDENT: Order! I was very conscious of what was about to occur and I was very alert to see whether any other member attempted to rise. Nobody attempted to do so. Therefore, when the Leader of the House rose, I gave him the call. However, before I gave him the call, I made a visual examination to see whether anyone else was attempting to rise. No-one was so I took it that no-one wanted to speak. It is over.

Question put and passed.

House adjourned at 6.23 pm

QUESTIONS WITHOUT NOTICE

RAFFLES - LIBERAL PARTY, TAX DEDUCTIBLE CONTRIBUTIONS

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

- (1) Is a Western Australian political party, the Liberal Party, running a raffle entitled "Support Us and Win"?
- (2) If yes, is he aware that on these \$50 tickets the following words are printed "Individual contributions up to \$100 are tax deductible"?
- (3) Is the Premier aware that raffle purchases are not tax deductible?
- (4) Does this Liberal promotion contravene any state laws?
- (5) If yes, what action will he be taking against this political party?

Hon GEORGE CASH replied:

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

- (1)-(2) Yes.
- (3) This is a matter determined by the Australian Taxation Office.
- (4) No.
- (5) Not applicable.

CREERY WETLANDS - MANAGEMENT PLANS

643. Hon J.A. COWDELL to the Minister for the Environment:

Is the State prepared to make funds available to ensure the prompt implementation of a management plan for the Creery wetlands?

Hon PETER FOSS replied:

As the member will know, the State had already entered into arrangements for the proper management of the Creery wetlands. It could have happened some considerable time ago, because under the arrangements proposed by the developer the land in area C and part of area B was to be made available to the State. Additionally, substantial sums were to be made available to erect a vermin proof fence and to rehabilitate the land. As the member will know, some of the residents of Mandurah have not dealt kindly with the Creery wetlands and have been doing broggies and dumping vehicles. Therefore, a considerable amount of management is required to allow it to realise its full potential as a wetland with international significance for bird life. As a result of the action by the Federal Government, that is a little bit in the melting pot.

I hope we will be able to obtain a similar kind of arrangement with the developer. I will certainly be urging that as part of the basis of the memorandum of understanding being entered into on a three-way basis between the Commonwealth, the State and the developer. Obviously a very substantial amount of money and a very large amount of land is involved. The outcome remains to be seen, but I hope that either the developer will be prepared to continue the original offer or, if the Federal Government by its action has prevented that from occurring, the Federal Government under its various programs for the acquisition of such parklands will be prepared to provide those moneys. The role of the State would be to take over the perpetual management of those lands, which is a large and long responsibility, but one which we believe appropriately rests with the State. We would be very pleased to devote an appropriate amount of funds to that. This is still in a state of flux and dependent upon the memorandum of understanding to be entered into between the three parties.

NORTHBRIDGE TUNNEL - IMPACT ON GROUND WATER LEVELS

644. Hon J.A. SCOTT to the Minister for Transport:

- (1) Has Main Roads done any hydrogeological investigations of the impact of regional ground water flows on the proposed Northbridge tunnel, and the impact of the tunnel on regional ground water flows?
- (2) If yes -
 - (a) who carried out these investigations?
 - (b) how extensive were the investigations?
 - (c) what conclusions, results, and/or recommendations did they make?
- (3) If these studies have been made, why have they not been made public?
- (4) If no such studies have been done, why not and when will they be carried out?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) No.

(2)-(3) Not applicable.

- (4) Technical advice provided by tunnel experts stated that sufficient engineering solutions/options were available to design a tunnel which has little to no impact on the prevailing ground water levels. Consequently, tenderers are expected to address this issue during the development of their proposals. Any contractor submitting a proposal having significant adverse impact on the ground water levels will not be accepted. All tenders are well aware of this. In submitting proposals, each tenderer will need to demonstrate that its proposal meets Main Roads and EPA stringent ground water requirements. Should Main Roads consider an independent investigation is required, this will be done. Until details of the proposed tunnel are available, such as the form and method of construction, any investigation would serve little purpose.

I add that it does no good to them or anybody else in the community for people to make unsubstantiated and uninformed comments about the effects of the movement of water as a consequence of the tunnel.

Hon Sam Piantadosi: It is very important.

Hon E.J. CHARLTON: I agree.

Hon Sam Piantadosi: There is a main sewer running there.

Hon E.J. CHARLTON: We are not talking about the sewer in this case.

Hon Sam Piantadosi: Idiot!

The PRESIDENT: Order!

Withdrawal of Remark

Hon E.J. CHARLTON: I ask that the remark be withdrawn.

The PRESIDENT: Hon Sam Piantadosi has to withdraw that remark.

Hon Sam Piantadosi: I withdraw.

Questions without Notice Resumed

Hon E.J. CHARLTON: I say to Hon Jim Scott that I respect the fact that some people have some genuine concerns. If he or anybody in contact with him has a genuine concern about the project he is welcome to put it to me or direct to Main Roads; I encourage him to do so.

**BUILDERS REGISTRATION BOARD - MEMBER REPRESENTING
INTERESTS OF CONSUMERS**

645. Hon BOB THOMAS to the Minister for Fair Trading:

- (1) Who is the member of the Builders Registration Board appointed by the Minister as a person qualified to represent the interests of consumers?
- (2) When was that person appointed?
- (3) What skills or experience did that person possess that led the Minister to consider the person was qualified to represent the interests of consumers?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) Marie Louise Matthews.
- (2) June 1993.
- (3) Member of and office bearer in a number of community organisations.

NORTHBRIDGE TUNNEL - DRILL SITES; TEST DRILLING

646. Hon J.A. SCOTT to the Minister for Transport:

- (1) What test drilling has Main Roads done adjacent to, or along, the proposed Northbridge tunnel?
 - (a) Where are the drill sites located?
 - (b) How deep did the drill sites go?
 - (c) What strata did they find, and at what depth?
- (2) Does Main Roads have access to other drilling logs along or adjacent to the tunnel?
 - (a) Where are those drilling sites located?
 - (b) How deep did the drill sites go?
 - (c) What strata did they find, and at what depth?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) To supplement the existing drilling logs available in the vicinity of the Northbridge tunnel, a geotechnical study was undertaken and completed in June. Over 40 drill sites were investigated. Ground water monitoring stand pipes were installed at 15 of these sites. In addition, three ground water bores were installed and tested to measure the permeability along the tunnel section.
 - (a) Plans showing the location of these recent drill sites are available from Main Roads.
 - (b) The drill sites were tested predominantly to a depth of 15 metres with some extending to 20 metres.
 - (c) Based on the recent geotechnical study, together with other existing drill logs, indications are that the strata formation comprises Bassendean dune sand overlaying a Guildford formation. That is a mixture of clay and sand. The dune sand strata has a thickness in excess of 15 metres.
- (2) In February this year, Main Roads commissioned a consultant to collate all the known drilling logs available within or in the vicinity of the reserve in the vicinity of the Northbridge tunnel reserve. Drilling logs in the order of 30 locations were found and tabulated.

- (a) A plan showing the locations of the drilling sites is available.
- (b) The depths of the drill sites vary from about 8 to 15 metres.
- (c) See (1)(c).

THERMALITE BRICKS - BUILDERS REGISTRATION BOARD INQUIRY

647. Hon A.J.G. MacTIERNAN to the Minister for Fair Trading:

Further to the answer to question on notice 3372 -

- (1) What action was taken by the Builders Registration Board following its informal investigation of thermalite blocks in 1991?
- (2) Will the Minister table the report made of the informal investigation?
- (3) If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) As a result of its informal investigation in 1991, the Builders Registration Board staff established that the way in which thermalite blocks were being laid was not satisfactory. The problems identified in 1991 were followed up with the builders who took steps to ensure that the blocks were laid in accordance with the specifications prepared by the manufacturers' engineers.
- (2) No report was prepared.
- (3) Not applicable.

HOMESWEST - THERMALITE BRICKS

648. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Housing:

- (1) Have any Homeswest dwellings been constructed using thermalite blocks or bricks in exterior walls?
- (2) If yes, how many?
- (3) What research has been undertaken by Homeswest or the Building Management Authority into the suitability of thermalite blocks or bricks for load bearing interior walls or for external walls?

Hon MAX EVANS replied:

I thank the member for some notice of this question and I ask that it be placed on notice.

HOSPITALS - BOARD MEMBERS, ELECTIONS, POSTAL VOTE

649. Hon KIM CHANCE to the Minister representing the Minister for Health:

- (1) Has the Minister considered the need for a postal vote for the election of hospital board members?
- (2) If so, has the Minister decided to permit a postal ballot in these elections?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) No.
- (2) Not applicable.

RAFFLES - LEGISLATION PROHIBITING MISLEADING PROMOTIONS

650. Hon J.A. COWDELL to the Minister for Finance:

Are there any state laws which prohibit the use of force and misleading statements to promote raffles conducted under state permit?

Hon MAX EVANS replied:

I ask that the question be put on notice.

AIRPORTS - NEW SITE

651. Hon GRAHAM EDWARDS to the Minister for Transport:

Can the Minister provide me with the information to the question that I asked on Tuesday of this week?

Hon E.J. CHARLTON replied:

That question related to the new airport site. Rather than answer that in detail, I have the information here and I will make it available to the member.

TAFE - COUNSELLORS; EDUCATION DEVELOPMENT LECTURERS *Abolition of Positions*

652. Hon TOM HELM to the Minister for Education:

- (1) Can the Minister confirm that last week he sacked all the TAFE counsellors and education development lecturers?
- (2) Will he be sacking all temporary teachers at the end of the semester and be calling for private tenders to take over all TAFE award courses?

Hon N.F. MOORE replied:

- (1) No I did not.
- (2) No I will not.

EDUCATION DEPARTMENT - BAYSWATER EDUCATION OFFICE, CATWALK CONSTRUCTION

653. Hon TOM HELM to the Minister for Education:

In response to question without notice 598, is one of the reasons the catwalk was constructed the occupational health and safety requirements to minimise the exposure of workers to asbestos?

Hon N.F. MOORE replied:

I am not aware of the details of this question. I recall the question, but I do not know why the catwalk was constructed other than the reasons given in the answer. I will take that on notice and if there is any change to my earlier answer, I will advise the member.

AIRPORTS - HALLS CREEK; FITZROY CROSSING, SEALING OF AIRSTRIPS

654. Hon P.H. LOCKYER to the Minister for Transport:

I understand that the Minister has had discussions with the Halls Creek Shire and the Derby-West Kimberley Shire with regard to the possible sealing of the airports for both those towns. What stage have those discussions reached? Is it possible that the sealing of those runways will be carried out prior to the end of 1996?

Hon E.J. CHARLTON replied:

With regard to those two airports, the funding proposal to cater for their sealing is incorporated in this year's Budget. We have allocated \$7m over three years. Some \$3m is to be spent this financial year. That will provide funding for Busselton and Kalbarri as well as the two airports to which the honourable member referred. It will also provide for the planning aspects of another airstrip in the Karijini national park. The proposed arrangement for those two shires is that they will put forward a plan with costings to have the two strips sealed. Out of that fund, we envisage that between one-third and one-half of the cost of carrying out that sealing will be provided from the Government's fund.

Discussions have taken place with those shire councils. As I understand it, the substantial financial assistance will enable that work to be carried out. I would certainly expect it to be carried out before the end of 1996. As the member is aware, and as other members know, the airstrips at Halls Creek and Fitzroy Crossing have been a significant problem for those communities for a long time. We have been there and discussed the problem with the local shires. They have told us that, with that level of funding, they will be able to seal the runways.

As the member will be aware, when the Federal Government handed over the Halls Creek airport to the shire - it was more of a case of the Federal Government walking away from it - it carried out some top dressing on the strip. A type of material was put on which, as soon as a shower of rain touches it, becomes almost unusable. That has caused a problem for the shire. If the right material had been put on, that would have been an advantage. However, the strip ended up worse than it was before the top dressing was applied. It appears we will not get any financial compensation from the Federal Government for the way it did that job. It simply went in, did the job and ran.

Hon Kim Chance: Which agency did the servicing?

Hon E.J. CHARLTON: It was a federal government organised operation.

Hon Kim Chance: It was working directly for the FCA.

Hon E.J. CHARLTON: Yes, it drew the material from beside the airstrip rather than getting suitable material from elsewhere. As soon as the rain falls it becomes a paste and cannot be used. That has been a problem in every wet season. The sealing of these two airports will be a significant advantage in the Kimberley because, obviously, when the roads are out during the wet the airports are a vital link. The local community is very pleased with this decision.

The decision to incorporate this funding as a right within this airport strategy means that every shire council-owned strip around the State - and the shires own all of the strips except for the Broome strip - will now be able to put in a submission in an organised way about the benefits that will come as a consequence of improvements to their strips. That funding will then be made available on a priority basis, depending on the submissions that come forward. We have also been able to implement other benefits. Albany has been assisted with communications equipment and we have looked at a number of other strips around the State. There are other funding proposals apart from this to assist some of the regional airports.

In addition, extensive pilot training is taking place in Western Australia. In fact, China Southern is looking to train 2 500 pilots in Western Australia. Obviously they cannot all be trained at Jandakot. Therefore, there will be an opportunity to incorporate Jandakot with regional airports around Western Australia. We are working very closely with the international companies, including Singapore Airlines and a number of other South East Asian airlines, because Western Australia has the opportunity to take great advantage of not only the training aspect but also the commercial advantages that result. If any members have travelled to South East Asia in recent times they would have seen the enormous increase in air operations throughout that region. The companies involved need somewhere to train their pilots because they do not have the facilities in their own countries. This is a great opportunity and we want to take advantage of it.

EDUCATION DEPARTMENT - TEACHERS, PAY DEDUCTION FOR ATTENDING TWO HOUR STOP-WORK MEETINGS

655. Hon TOM HELM to the Minister for Education:

- (1) Did the Minister authorise the Education Department to deduct a full day's pay from the pay of those teachers who attended two-hour stop work meetings?

- (2) Will the Minister acknowledge that this is illegal?
- (3) Can the Minister explain to the House the justification for such illegal deductions?

The PRESIDENT: That is seeking a legal opinion.

Hon TOM HELM: The whole lot?

The PRESIDENT: No, just the last question.

Hon N.F. MOORE replied:

- (1) Yes, I agreed with the director general's advice.
- (2) No.

EASTON, BRIAN MAHON - MINISTER'S STAFF, DISCUSSIONS AT PARKER AND PARKER OFFICES

656. Hon A.J.G. MacTIERNAN to the Minister for Environment

Did any member of the Minister's staff, in the course of her duties, attend the offices of *The West Australian* newspaper's solicitors, Parker and Parker, in order to discuss evidence in relation to Brian Mahon Easton in the period October 1993 and March 1994?

Hon PETER FOSS replied:

I ask that the question be put on notice.

WATER AUTHORITY - SEWERAGE INFILL PROGRAM *Bayswater*

657. Hon GRAHAM EDWARDS to the Minister for Transport:

I thank the Minister for making available to me the working group report on the second general aviation aerodrome for the Perth region. In the conclusion of the report it is stated that whatever site has been identified, it is important that the next stage of the process include the opportunity for the public to comment on the findings of the working group.

- (1) Can the Minister say when that stage will come into effect?
- (2) What process will be used to consult the local people?

Hon E.J. CHARLTON replied:

- (1)-(2) I cannot answer that question specifically. The main discussions I had with the department related to how the working party came to its decision to recommend that site, what the problems were with the other sites and so on. I am not up to scratch on the process involved. However, I will provide the information to the honourable member and let him know when that consultation will happen and how it will happen. As far as that area is concerned, we are getting widespread interest in the timetable for the implementation of another airport in the north. That is linked to some of the things I mentioned in answer to a previous question.

INFILL SEWERAGE PROGRAM

658. Hon SAM PIANTADOSI to the Minister for Water Resources:

Some notice of this question has been given.

- (1) Is the Minister aware that the infill sewerage program is presently providing sewerage to homes in Bayswater?
- (2) Is the Minister aware that -
 - (a) the homes at 3, 5, 7, 9, 11, 13, 15, 17 and 19 Rugby Street and 3 and 6b Flora Avenue are not scheduled to be provided with deep sewerage;

- (b) some home owners of the above properties have had to have their septic tanks emptied every two years;
- (c) some home owners are running out of land to sink replacement wells which have been needed over the years;
- (d) are there cogent economic and environmental reasons for having these properties provided with deep sewerage forthwith?
- (3) Is the Minister prepared to ask the Water Authority to review its plans to see if these properties can be provided with deep sewerage forthwith?
- (4) Has an estimate of the cost of providing sewerage to these properties been provided?
- (5) If so, what is the estimate?
- (6) If not, will the Minister ensure such an estimate will be provided?
- (7) If not, why not?
- (8) Would it be more efficient to have this work done now while the equipment and contractors are in the vicinity?
- (9) If the Minister is not prepared to ensure that these properties are provided with deep sewerage without delay, when will such properties be connected to the system?

Hon PETER FOSS replied:

- (1) Yes.
- (2) (a) The homes mentioned are scheduled to be included in the infill sewerage program;
- (b) I am aware that two of the mentioned lots are experiencing problems;
- (c)-(d) Yes.
- (3) I have already asked the Water Authority to advise me on this matter.
- (4) No.
- (5) Not applicable.
- (6) Yes. An estimate will be undertaken after a detailed design is prepared.
- (7) Not applicable.
- (8) No.
- (9) I have advice that it is now possible to advance the scheduled date and design will be undertaken in 1996. Subject to statutory requirements, connection should be available in 1997. The essential point here is that they were not scheduled in the first five years of the program. However, that will now change.

Hon Sam Piantadosi: The contract is only 200 metres away.

Hon PETER FOSS: My understanding is that it would not be economical. However, I would be very happy to arrange for the member to talk directly with people in the Water Authority.

Hon Sam Piantadosi: Do you mean Ken Walters?

Hon PETER FOSS: Yes.

EASTON, BRIAN MAHON - MINISTER'S STAFF INQUIRY

659. Hon A.J.G. MacTIERNAN to the Minister for the Environment:

Was any member of the staff of the Minister's office engaged in any way in investigating the affairs of Brian Mahon Easton in the period October 1993 to February 1994?

Hon PETER FOSS replied:

I would have some difficulty with the particular dates. However, my office did receive a complaint against Brian Mahon Easton. As with all complaints that we believe may have some basis, it was investigated and the matter was later referred to the Premier's department because it appeared to deal more with other departments than with my own. I believe that subsequently some prosecution action has taken place.

EASTON, BRIAN MAHON - MINISTER'S STAFF INQUIRY

660. Hon A.J.G. MacTIERNAN to the Minister for the Environment:

Further to my previous question, will the Minister advise the House of the name of the officer who was principally involved in those investigations?

Hon PETER FOSS replied:

Not unless I think there is a very good reason to do so.

**EDUCATION DEPARTMENT - LETTERS SENT TO PARENTS IN
PRINCIPALS NAME**

661. Hon TOM HELM to the Minister for Education:

Will the Minister confirm that it is not the practice of the Education Department to direct principals to sign letters to parents that they have not written and, therefore, ensure that they are not placed in a position to be held responsible for those letters?

Hon N.F. MOORE replied:

Mr President, I hope you will forgive me, but I think there is a double negative in the question and it makes it awkward for me to answer yes or no.

I will explain the situation that applied with the letters that went home to parents from the schools which were experiencing industrial action. The member will be aware that every school has a duty of care obligation for the children who attend the school. Ultimately, the Minister for Education takes the final rap if something goes wrong. Every effort must be made to make sure that every child's circumstances are taken care of.

Following the State School Teachers Union's decision to have two hour rolling strikes it was necessary for each principal to inquire of each teacher what he or she would do in the event that a stop work meeting took place at that school. This gave the principal the opportunity to judge whether classes would be held at that school. Upon gaining that advice the principals were required to choose one of three letters to send home to parents. They were to choose the letter which best represented the circumstances at their school. The letters were fastidiously prepared by the Crown Law Department to ensure that the duty of care obligations of schools were well and truly adhered to. I have no problem with this arrangement because it is very important to ensure that every parent knows exactly what will be the situation in the child's school which are subject to disputation. Parents must know what will or will not be happening in the school so that they can make the necessary arrangements.

One of the concerns is that if teachers go on strike from 9.00 am to 11.00 am and the children are to attend school from 11 o'clock there is no guarantee that crosswalk attendants will be on duty on busy highways. It is better for the children not to attempt to negotiate those roads on their own. The principals were required to make decisions about those children. The reason for requiring principals to send one of the three letters was to ensure that the school's duty of care obligations were well and truly adhered to.

**EDUCATION DEPARTMENT - LETTERS SENT TO PARENTS IN
PRINCIPALS NAME**

662. Hon TOM HELM to the Minister for Education:

I appreciate the Minister's response. Given the importance of the letter being legally correct and for that reason being prepared by the Crown Law Department, why could not the letter be sent out in the name of the Minister rather than the name of the principal?

Hon N.F. MOORE replied:

I am happy to consider that suggestion for the future. I can give no reason why the letter should be in the principal's name and not the Minister's name. There was no suggestion that it should be in the principal's name. Perhaps in future a similar letter could be sent out in the name of the Minister, the director general or any person who has a broader responsibility. The decision about which letter would be sent to suit the circumstances of the particular school was for the principals to decide. Principals were given three options which we thought represented the three scenarios which could occur in schools. I take the member's suggestion on board and can see no reason why we could not do that in the future.

**NORTHBRIDGE TUNNEL - IMPACT ON PERTH MAIN SEWER, WATER
AUTHORITY STUDY**

663. Hon SAM PIANTADOSI to the Minister for Water Resources:

- (1) Has the Minister ordered the Western Australian Water Authority to undertake a study into the impact of the construction of the Northbridge tunnel on the Perth main sewer?
- (2) If no such study has been ordered, will the Minister ensure a study is ordered, bearing in mind the Perth main sewer is over 90 years old and the structural damage that might occur would be very costly to the State?

Hon PETER FOSS replied:

- (1) No.
- (2) It is very unlikely that I will order the Water Authority to undertake such a study. The member should recognise that WAWA has its own board, as well as its own engineers and other experts. On technical matters I am generally guided by the people who have the expertise. I do not suggest what the member said about the main sewer is incorrect. I will make sure that the relevant people note the member's concerns. I would be loath to order the board to do anything because the Minister's involvement by using that sort of power is something one would not do lightly.

Hon Sam Piantadosi: Would you accept the ultimate responsibility?

Hon PETER FOSS: One must be very careful about that.

Hon E.J. Charlton: Does Mr Piantadosi accept the ultimate responsibility for not doing any sewerage work for 10 years?

Hon Sam Piantadosi: I was not the Minister.

Hon PETER FOSS: It is an interesting point. The Burt Commission on Accountability said that where an independent body is set up - for example, the Water Authority - the relevant legislation should give the power for the Minister to direct the independent board. Without that power the Minister could not be held responsible. If he was incapable of directing what was happening, he could not be held responsible. To the extent I have the power to direct, I do take responsibility; to the extent that I do not have the power to direct, I do not take responsibility. I accept that ministerial responsibility comes with the power to direct, but if that power is not there, there is no responsibility.
