WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE COUNCIL

Tuesday, 30 June 1998

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 11.00 am, and read prayers.

HON ERIC MICHAEL HEENAN

Condolence Motion

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [11.02 am]: I move -

> That this House expresses its deep regret at the death of Hon Eric Michael Heenan, a former member of the Legislative Council for the North-East Province and the Lower North Province and father of the House from 1958 to 1968; and places on record its appreciation for his long public service and tenders its profound sympathy to his wife, son and members of his family in their bereavement.

Hon Eric Heenan leaves a reputation as a dedicated and honourable member of Parliament, and as a respected lawyer. His passing at the age of 98 has a particular significance. He was the last surviving parliamentarian to have enlisted in the First World War; he was the last living member to have served in the Western Australian Parliament before the Second World War; he contested his first election before any member of this House was born; he had at 32 years the longest continuous term of service of any Australian Labor Party member of the Legislative Council; and he was father of the Legislative Council for 10 years between 1958 and 1968.

These facts are notable but they are far less important than the quality of Eric Heenan's life and public service, a record that earned him great respect and affection from his political opponents. He was born in the eastern goldfields town of Kanowna and spent part of his early life at Esperance. He entered the teaching profession as a very young man and then aged 18 years enlisted in the AIF. Hostilities ended before he reached Europe. At the time of Anzac Day this year he was one of 18 surviving veterans of the Great War.

Eric Heenan taught at East Victoria Park, studied law, and was admitted to the profession in 1929. He practised first in Esperance and then in Kalgoorlie, where he represented the Australian Workers Union. In 1930 he contested the South Province, based on Boulder, Coolgardie and Norseman, for the Australian Labor Party.

Looking back, it is too easy to assume that a goldfields Labor member would have been assured of a safe parliamentary seat. Although this was generally the case for the Legislative Assembly, contests for the Legislative Council were far more open and indeed in the early 1930s most of the six goldfields seats in the Legislative Council were in conservative hands. Eric Heenan was unsuccessful in challenging the sitting MLC, Hon George Cornell, and in 1934 he contested the neighbouring North-East Province against another strong incumbent, Hon Harold Seddon. On that occasion he came within eight votes of success.

Two years later at the 1936 biennial election for the Legislative Council he succeeded in winning another North-East Province seat, defeating a well known Kalgoorlie identity, Hon Richard Moore, by 32 votes. After these tough battles Eric Heenan won the strong backing of an electorate that stretched from Kalgoorlie to Leonora, Laverton and beyond. He was re-elected in 1944 with a comfortable 57 per cent of the vote and had decisive wins in the North-East Province in 1950, 1956 and 1962.

Servicing a large, remote electorate was no easy task in those times and a conscientious MLC like Eric Heenan would be travelling over rough roads and staying in primitive hotel accommodation in order to represent the needs of communities running short of petrol or groceries, or badly in need of improved schools. Hon Clive Griffiths remembers Eric Heenan visiting his country school as the first member of Parliament he ever met. I am sure that Hon Clive Griffiths would wish to express his respect for his former colleague. Eric Heenan used his legal office for his parliamentary work in an age when electorate offices were unheard of. When he transferred his residence to Perth in 1950 he would travel to Kalgoorlie by train each weekend when Parliament sat to keep in close touch with his constituents.

His official biographical notes record his membership of Kalgoorlie community institutions, and his presidencies of the Amalgamated Prospectors Association and of the Eastern Goldfields Fresh Air League. Such detail, however, is only a small indication of the depth of his long community service.

After 1965 the major redistribution of Legislative Council boundaries saw the North-East Province disappear. In its place was the new Lower North Province, consisting of the Legislative Assembly seats of Gascoyne and Murchison-Eyre. Eric Heenan was an inaugural member for the province but his election prospects were made more difficult with the loss of Kalgoorlie, and in 1968 he was narrowly defeated by the late Hon George Berry by only 71 votes out of 3 500. Perhaps a lesser man would not have recontested the seat.

Eric Heenan's contribution to debate in this House is notable for its logic, thoughtfulness, and complete lack of partisan rancour. He was as a member of the Australian Labor Party opposed to the restrictive franchise of the Legislative Council prior to its reform in 1963, and his approach was to argue for gradual, incremental reform. Unlike many of his colleagues, he did not call for this Chamber to be abolished. His speeches show that he sought to convince his opponents at all times by rational argument. He believed that the Legislative Council should function as a relevant House of Review and that adult franchise would strengthen it.

Above all else, Eric Heenan was a man of great personal honour who adhered to decent standards, even to his political cost, and rose above partisanship. In his retirement he maintained his long friendship with the late Lloyd Loton until they both grew very frail in recent years. He had a reputation for being a most honest and skilful lawyer, a profession followed by his wife and son.

On behalf of the Government, we express our sympathy to Mrs Joan Heenan, to Mr Eric Heenan QC and to his family on their loss.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [11.09 am]: As Leader of the Opposition, I rise on behalf of all members of the Parliamentary Labor Party to express our sympathy to the wife of Hon Eric Heenan, Mrs Joan Heenan; his son, Eric; his daughter in law Elizabeth and his two grandchildren, the extended family, his friends and colleagues who all held him in the highest regard.

The Leader of the House has put on record the details of the political life of a former Labor member of this Chamber. However, I want to add a few details about Eric Heenan. I had to go into the records because I knew of him only by reputation. I wanted to find what it was that earned him his fine reputation. I have taken the opportunity of speaking to some of his former colleagues, particularly a former Leader of the Opposition, Hon Ron Davies whose commentary is worth repeating at this time. Hon Eric Heenan distinguished himself in his contributions to this place with the quietest presentation of cogent, coherent argument. In his political life he was well known for never seeing evil in an opponent, and always taking the opportunity of persuading with logic rather than with bluster, free from the type of contribution in which the rest of us have indulged from time to time.

The inaugural speech of Hon Eric Heenan was delivered in this House on 6 August 1936 and is notable for many reasons. It captured the flavour of the State at the time, and the North-East Province which he represented. He drew attention to the difficulties of his electorate, and the need for the Government to tackle the water problems and the roads into the north eastern goldfields. This speech was delivered during the years in office of the Collier Government. He said -

> People in those far-flung localities are still carrying out pioneering work of national importance and are deserving of the utmost consideration.

He said also -

> It is a matter for general satisfaction that the goldmining industry continues to maintain excellent progress. The people of Western Australia have every cause to be thankful for what the industry has accomplished in recent years. At present there are approximately 16,000 men directly employed in the industry, and that number will undoubtedly be increased during the ensuing 12 months. The Government are to be commended for sponsoring developments at the Big Bell mine . . .

He said also -

> The price of gold shows no indication of decline and it seems apparent that, in view of the present state of world unrest, the high price will continue because gold seems to be the one basis of exchange on which all the nations of the world are agreed, and it appears to me that the present state of world unrest will serve to accentuate the demand for gold. In view of its importance, therefore, it is essential that the industry be fostered and nurtured.

He said also that -

> . . . wider powers should be granted to the Mines Department to ensure that our mines were worked scientifically and that valuable State assets were not wasted or destroyed for the sake of individual profits. . . . It is a matter for regret that during the past year the number of fatal accidents that occurred in the mining industry had assumed alarming proportions. This is an aspect to which the Government must give their closest attention . . . Mining is a very dangerous and hazardous occupation and in view of that and the immense profits being earned from it, the claim of the men for a shorter working week must receive most serious consideration.

He referred also to the need for reduced working hours.

He also raised the other electoral concerns of the people of his region, and the need for the community of Western Australia to recognise that the freight that was coming into the State via the Port of Fremantle, often from the eastern States, could much more appropriately be put through the Port of Esperance and then be conveyed to the goldfields, to the benefit of the people of that region.

Eric Heenan had a 32 year political career. He won his seat by the narrowest of margins in the 1936 election - a mere 32 votes - when he beat his colleague, Mr Dick Moore. He said in his interview for the parliamentary history project that -

> Anyhow, I opposed Dick Moore in 1936 and I did it with considerable reservations because I respected him and I had known him. . . . I beat him by 37 votes or something like that, I think it was. . . . I was sorry about it. I didn't celebrate very much having won because I was sorry for having displaced this decent man. Anyhow, Dick Moore went on to be Mayor of Kalgoorlie and he was knighted. He finished up as Sir Richard Moore. We remained good friends. He held no resentment over my beating him and, as matter of fact, if the Governor or some prominent person came to Kalgoorlie and there was a reception at the Town Hall, I would get an invitation to go as one of the members for the Goldfields and, as often as not, Dick Moore would call on . . . "Oh, I would like the Hon. Mr Heenan to say a few words." Call on me, which was nice.

His political career was categorised by that type of affability. Throughout his career, he had the opportunity of being involved actively in the life of many people in the goldfields, and many of the death notices that have appeared in *The West Australian* are testimony to that involvement. It is commendable that this man, who was 98 when he died and who retired so many years ago, is still remembered for his contribution to parliamentary life.

Eric Heenan made his last speech in this House in November 1967. It was not his intention that it should be his last speech, as the Leader of the House has said. He contested the 1968 election and was defeated at that election by Hon George Berry, whose demise the House noted recently. As we have seen from the comments of the Leader of the House, his defeat at that time was by a small handful of votes at the end of a 32 year career - 71 votes. In his final speech to the House, he spoke about the changing character of his electorate and about the emergence of nickel with the opening of Western Mining Corporation's nickel mine at Kambalda. He referred also to the goldmining industry and said -

> . . . the goldmining industry is facing hard times and is really up against it.
>
> Three of the four principal mines on which the economy and the prosperity of Kalgoorlie mainly depend are already receiving the maximum subsidy of $8 an ounce . . .

In the remainder of his contribution, he expresses concern about the need for Government to continue to support the goldmining industry. From the beginning of that man's political career until the end, he talked about the fluctuating fortunes of his electorate and of the people of his electorate, with whom he was intimately entwined.

A famous story about Eric Heenan has been told to me on a number of occasions. This story typifies the life of these goldfields members, who in serving the remote areas of the State at that time had to travel between their electorates and Kalgoorlie at the beginning and end of the parliamentary week, typically by train. They often had the opportunity of travelling together. The story is that Eric Heenan and another member, Jim Garrigan, were travelling together on the train in fairly inhospitable circumstances where they had to share the same compartment. During the night, Mr Garrigan woke up and wanted to have a glass of water, so he drank a bit of the water and then opened up the window and threw out the rest of the water in the glass. When Mr Heenan woke up in the morning, he found that his false teeth had gone out the window! I do not know which way they were heading - up to Kalgoorlie or down to Perth - but, either way, he lost his false teeth! I am told he took it in good humour. No doubt other members can tell tales about this member, and I am sure that my colleague Hon Mark Nevill will say a few words.

During Eric Heenan's parliamentary career, he distinguished himself with the presentation of some major reports: The report of the Select Committee Appointed to Investigate the Activities of Private Inquiry Agents, which he chaired, and the report of the Parliamentary Committee Appointed to make Enquiries into the Licensing Act.

Eric Heenan was a solicitor who was highly regarded and who had maintained his ongoing association with the legal community through his son, Eric Heenan, QC. The tales which he tells in his interviews with Ronda Jamieson, the oral history officer for the parliamentary history project, are fascinating and indicate his preoccupations. He would be alarmed, no doubt, at the political circumstances with which this House is faced today with the likely receipt of a message on workers' compensation, because through much of this man's political life, he championed the need for a workers' compensation system that would protect the interests of workers in this State, particularly those in the mining industry.

In parliamentary debate he alluded to the arguments of his political opponents, who so regularly talked about the added cost of insurance being too big a burden for industry to carry. That is a familiar argument that we hear today even as we deliver a message of condolence upon the death of this man. It is for those reasons that he goes down as one of the Labor heroes of the goldfields. He was intimately involved with the people of that region. His wife is prominent in the Labor women's movement of the goldfields. He received the support of a broad cross-section of the goldfields community for 32 years - a long and sustained political life.

On behalf of my Labor colleagues, I express to his wife Mrs Joan Heenan, his son Eric, and the family, the deepest sympathy of the members of the Australian Labor Party.

HON MARK NEVILL (Mining and Pastoral) [11.20 am]: The Leader of the Opposition has comprehensively outlined the life and career of Hon Eric Heenan, and that leaves me just to fill in a few gaps here and there. Eric Heenan was known to me personally, and to my family since 1930, when he began practising law in Kalgoorlie. Eric and his wife Joan were the godparents of my eldest brother. I was not aware that he practised in Esperance. I understood that he started practising in Kalgoorlie after doing his articles in Northam. When he first arrived in Kalgoorlie as an inexperienced lawyer, he took up residence in the Palace Chambers, which was run by my grandfather, Spencer Cook. It was the Depression and my grandfather assisted him during those hard times when there was not a lot of work around and the rent had to be paid. My great uncle Reg Cook was also a lawyer in the Palace Chambers with rooms opposite him. My uncle, who passed away recently, said that Reg Cook gave Eric great assistance during those early times. Eric and Joan Heenan have repaid any help that my grandparents gave them through their subsequent help to my family. I can remember as a member of a large family in the 1950s going to their office in the Terrace and Joan Heenan giving my mother legal advice on this or that matter, and I am sure that an account was never sent.

I will fill in a few parts of Eric Heenan's life that have not been covered. He went to boarding school in Adelaide after he left Esperance Primary School. He returned to Esperance in about 1915. Times were hard in Esperance and the family fortunes were low. They had a farm in the mallee, and they owned the Pier Hotel. When the family went to Esperance in 1900, it rebuilt the Pier Hotel with stone from Coolgardie. That building no longer exists. Like many people from the goldfields, the Heenans went to Esperance, perhaps thinking that would be the port of the goldfields and it would have good times. The people in the mallee had to wait 50 or 60 years before the good times came; they did it tough. At age 15, the family did not have the funds to send him back to boarding school in Adelaide. It so happened that the principal of the Esperance Primary School fell sick over the holidays and could not return to Esperance because he had an operation in Perth. Eric Heenan was invited to become a probationer at the Esperance Primary School and commenced teaching there in 1915 at the age of 15, in short pants, and armed with a junior certificate from Adelaide. He taught there for a few months until the headmaster returned and he was transferred to the Subiaco Primary School as a monitor where he taught for two years.

As the Leader of the House said, he then enlisted for war service. He never saw the front, because his troop ship, the *Boonah*, was anchored off Durban when the armistice was announced. The ship waited at Durban for a week. A that time, Spanish influenza was sweeping the world and 20 million to 30 million people died. It was horrific, and it was raging in Durban. The troops did not go ashore. However, because of the victualling that was coming out to the ships, the flu did get aboard and 30 of the soldiers died. Eric Heenan contracted the influenza and nearly died. On their return to Western Australia, the soldiers disembarked at the quarantine station at Woodman Point, where they stayed for a considerable time until the flu epidemic dissipated. He did not see active service as did his brother Neville.

Eric Heenan travelled back to the goldfields by train probably every second week, and once a month he would travel through the north eastern goldfields by train or by car. That was a fairly onerous schedule to maintain. As the Leader of the House said, he had a legal practice. In those days, parliamentary salaries were not adequate to survive on, and he continued his practice in Kalgoorlie. He moved to Perth in 1950, but maintained an office in Kalgoorlie which, I am sure, was a great help to constituents.

He was great friends with Emil Nulsen, the member for Eyre, and the late Claude Stubbs, whose passing we also noted recently. I interviewed him a couple of years ago because I was editing my grandmother's diaries. At that stage he was blind. He had glaucoma, which was undiagnosed, and between 1970 and 1978 he went blind. He was blind for the last 20 years of his life. He related one story which I found quite amusing. It was in the 1930s and Sir John Dwyer was the Chief Justice. Every now and again the court circuit would visit Kalgoorlie. At the end of the court circuit all the lawyers in the town were invited to a dinner. After one dinner the topic of conversation was what they might have done had they not joined the legal profession. A number of the people at the table said they probably would have done medicine or been pastoralists - various things of that nature. The last person to comment was the Chief Justice Sir John Dwyer. Sir John said that if he had his time again he would become a good lawyer!

During his 32 years in Parliament, Eric Heenan was the Australian Labor Party's main spokesman on legal matters.

His other main contributions were in the areas of workers' compensation and miners' respiratory diseases such as miners' phthisis, silicosis and pneumoconiosis.

I add my deep sympathy to Eric Heenan's wife Joan, to his son Eric and his wife Elizabeth, and their children.

HON SIMON O'BRIEN (South Metropolitan) [11.28 am]: Previous speakers have recounted stories of the late Hon Eric Heenan's 98 years of life. What a life it was, spanning from the time of Queen Victoria to the present. He went to many places and was many things to many people. The high regard in which he was held by those who knew him is a tremendous testimony to his memory. My only acquaintance with Mr Heenan was when I was a very young boy being introduced to a distinguished old man. Although my precise memory fails me, I have some recollection of it. It was emphasised to me at that time by my parents what a tremendous friend Mr Heenan was. The names of the Heenans, in particular Eric and Joan, have been used often by my parents over a long time and more recently, to denote all that is good and solid in a friendship. These were honourable people.

Through my membership of this Chamber, I take this opportunity to express on behalf the O'Brien family its condolences to Mr Heenan's family.

THE PRESIDENT (Hon George Cash): I join with other members of this House in paying respect to and honouring the memory of a long serving member of the Legislative Council in Hon Eric Michael Heenan. This morning members have spoken of the qualities of Mr Heenan as a member the Legislative Council. The Leader of the House, the Leader of the Opposition and Hon Mark Nevill referred to Mr Heenan as being a very strong advocate for the goldfields, which he represented in this place for 32 years. He was elected to this House in 1936 and retired in 1968. He was given the honour of moving the Address-in-Reply on the first day of the Parliament in August 1936. In the speech he delivered to the House on that day - I raise these issues to emphasise his advocacy of the mining industry and the goldfields in general - in part, he stated -

> The aim and the responsibility of every Government should be to provide full-time employment for their citizens so that all can maintain a decent standard of living and secure a fair share of the abundant wealth that is being produced.

Later in the speech, he said -

> It is a matter for general satisfaction that the gold mining industry continues to maintain excellent progress. The people of Western Australia have every cause to be thankful for what the industry has accomplished in recent years. . . .
>
> In view of its importance, therefore, it is essential that the industry be fostered and nurtured.

Some 32 years later in one of his last speeches to this House on a mining Bill the Parliament was then considering, he again referred to the mining industry. In that speech on 23 November 1967, he said -

> It is a fact of great significance that for the 1966 calendar year the value of the State's mineral production rose to a record $77,000,000. Of this amount iron ore contributed $22,000,000 and gold a little under $20,000,000.
>
> The production of oil from Barrow Island began in April of this year, and following on this there was the opening of the nickel mine at Kambalda.

He saw all that development in the mining industry in our State. Later in the speech he said -

> Other companies have joined in the search for nickel and it seems likely that in the year which lies ahead of us new mines, in addition to the one at Kambalda, will be brought into production. This happy state of affairs bears out the contention held for many years that the State has a wonderful asset in its goldfields. Always there seems to something over the hill in this area. However, although the hopes in regard to major nickel mines seem about to be realised, and it is most heartening, we must not lose sight of the fact that the goldmining industry is facing hard times and is really up against it.

He then encouraged the State Government to exert pressure on the Commonwealth Government to recognise the needs of the gold mining industry. From his first speech to others throughout his career in this place, Mr Heenan was a very strong advocate of the mining industry. All members have spoken of the qualities they admired in Mr Heenan. I think the greatest tribute of all was, in part, paid by his son, Eric, in the funeral notice placed in *The West Australian* this morning which, in part, said -

> Imbued with a devotion to the service of others. He constantly sought to improve our laws and conditions and to protect those in need. Ever a loyal and generous friend he naturally attracted others who shared his vision. He was a man of honour who could trust and be trusted.

That says much of the life of Eric Michael Heenan. I invite members to stand in their places in silence for one minute to signify their support of this motion.

Question passed, members standing.

RACECOURSE DEVELOPMENT AMENDMENT BILL

Assent

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

VISITORS TO PARLIAMENT HOUSE

Statement by the President

THE PRESIDENT (Hon George Cash): Order! I welcome to the President's Gallery, three winter clerks who are attached to the Legislative Council committee office - Merinda Logie, Hoa Do and Steven Wong. I welcome them to Parliament House, and I have trust their stay with the Legislative Council committee office will be of benefit to both them and the Parliament.

Honourable members: Hear, hear!

PEEL REGION RAIL LINK

Petition

Hon J.A. Cowdell presented the following petition bearing the signatures of 2 052 persons -

To the Honourable the President and members of the Legislative Council in Parliament assembled.

We the undersigned residents of the Peel Region submit.

1. That the Government's policy of delaying the rail link to Mandurah to 2021 is totally unacceptable.
2. That the Government commit itself to a comprehensive rail network in the southern corridor that involves linking Mandurah to the Armadale line at Kenwick and the Fremantle line at Fremantle, thus accessing employment opportunities in Kewdale, Canning Vale, Cockburn and the Kwinana strip as well as Perth.
3. That priority be given to whichever line accesses Perth and maximises employment opportunities, in the shortest possible time.
4. That Government transport policy is altered, to alleviate the acute unemployment problem in the Peel Region by the construction of a rail link to Perth by 2010 at latest.

Your petitioners therefore respectfully request that you will oppose the current Government transport policy and humbly pray that you will give this matter earnest consideration.

[See paper No 1753.]

DEMOLITION WASTE LANDFILL

Petition

Hon Jim Scott presented the following petition bearing the signatures of 199 persons -

To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned object to the practise of landfilling with Demolition waste in the area of Bird and Jackson Rds Mundijong. We the residents of The Shire of Serpentine & Jarrahdale Beg the Government to stop this practise forthwith.

We object to the tipping of Demolition waste for landfill or the Crushing and Screening of such waste in this unsuitable area. Due to the likelihood of Contaminating the local Wetlands, Environment and Drinking Water. And have grave concerns regarding Health, The Potential to endanger our local lifestyle, property values and local Businesses.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 1754.]

GOODS AND SERVICES TAX

Urgency Motion

THE PRESIDENT (Hon George Cash): I advise that I received a letter today addressed in the following terms -

Dear Mr President

At today's sitting, it is my intention to move an Urgency Motion under SO 72 that the House at its rising adjourn until 9.00 am on Saturday, 1 August 1998 for the purpose of discussing the impact of a GST on Western Australians.

Yours sincerely

Hon Tom Stephens, MLC
Leader of the Opposition in the Legislative Council

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

[At least four members rose in their places.]

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [11.43 am]: I move -

That the House at its rising adjourn until 9.00 am on Saturday, 1 August.

I begin by expressing my alarm at the prospect facing this nation of a once major political party introducing a goods and services tax. We have argued in this place about the need for this State to prepare for the prospect of a GST, and to consider the impact of a GST on the people of Western Australia. We have urged the Government to undertake the preparatory work and ensure the information is available to the people of Western Australia.

I was interested to read comments by the Premier in today's *The West Australian* in reference to the race debate. He argued in reference to One Nation that political parties are obligated to put before the community arguments supporting the policies presented. The Premier made such comment in the context of his contribution to the One Nation debate. He said, as with other political parties, that One Nation is obliged to make sure all facts relating to its claims and policies are made available to be judged by the Western Australian community and the rest of Australia. That argument, presented eloquently in short grabs in today's newspaper columns, also applies to the GST. It is incumbent upon Australian Governments to present material on this policy for the people of Australia. The State Government at this stage appears to be a willing accomplice to perpetrating a GST on the people of Western Australia.

Bear in mind members: The position of all Ministers of this Government in this House is known. This applies to the Leader of the House, who has responsibility for Tourism, Sport and Recreation and Mining, and who has argued in support of the introduction of the former GST proposal. Therefore, one presumes that he will fall behind the introduction of the new GST, yet to be fully explained to the people of Australia.

Hon N.F. Moore: I did not say that at all, you twit!

Hon TOM STEPHENS: Did the Leader of the House not support Fightback?

Hon N.F. Moore: Of course I did. That was then. I do not know, any more than you know, what is coming in now. It is a hypothetical debate.

Hon TOM STEPHENS: One goes down the front bench and finds that no Minister has dissociated himself from the prospect of the introduction of a GST. We hope that by now officers of the Minister for Finance have presented to the Minister and the Treasurer an analysis of the potential damage and impact of a GST on the finances of this State. That analysis, we hope, is prepared and available to the Government. It should be tabled in the House before we rise.

Hon N.F. Moore: Rubbish. Do you know what the GST will be? Do you know the federal position on tax reform? Please tell us.

Hon TOM STEPHENS: Come right in, Mr Leader of the House!

Several members interjected.

The PRESIDENT: Order! Members will interject one at a time.

Hon TOM STEPHENS: Governments across this nation are doing their work at the state level. We have available to us for the first time, for instance, a document prepared by people inside the Victorian Government for Premier Kennett. His Government is preparing itself for the impact of a GST. Page after page of this document outlines the scope of the proposal, and the executive summary commences the analysis of the proposal for the people of Victoria. We hope a similar analysis is being prepared in this State by officers of the Treasury, and that the analysis is made available to the Government and, in turn, to the people of this State. Therefore, we will have the opportunity to do as the Premier commends on such questions; namely, to subject those suggested policies to scrutiny.

We know that the Prime Minister is currently losing his enthusiasm for a July or August election, but the election cannot be put off forever. We also know that the original strategy was to conceal the detail of the GST until the last moment, but this strategy was derailed by the rejection of the coalition's policies in the Queensland election. Day by day the coalition parties are haemorrhaging from within. Here and in the eastern States the coalition parties have seen a loss of membership at the lay and parliamentary level. We saw last week the member for Geraldton endeavour to distance himself from his national coalition parties.

Hon Simon O'Brien: We lost Margie Bass and Marie Louise Wordsworth! How will we get on?

Hon TOM STEPHENS: Today we saw Marie Louise Wordsworth, who was a pillar of the Liberal Party, jump ship. Whenever I thought Liberal, I thought Marie Louise Wordsworth. She has epitomised everything the State Liberal Party stood for: Privilege, and looking after the interests of the well-heeled and monied classes of the State. She has changed tack by jumping overboard, joined by one other former Liberal Party member.

Hon Ken Travers: Who will be next?

Hon TOM STEPHENS: Indeed, who will be the next member of the coalition, the Liberal Party in particular, to leave the ranks?

Hon N.D. Griffiths: Marie Louise went from secession to One Nation in one week!

Hon TOM STEPHENS: Members of the coalition should desert this party that is trying to perpetrate what is effectively a tax hoax upon the people of Western Australia and this nation with its proposal to introduce a GST.

Hon Simon O'Brien: On the subject of this goods tax, are you saying that you want to know what the rate will be?

Hon TOM STEPHENS: It is not a question of the rate alone. It is the damaging impact upon the people of Western Australia of introducing a GST. If knowledge about this topic were presented fairly and openly to the community of this State, it would do the member's narrow partisan political party interests no good. That is the reason the Minister for Finance is not allowing the community of Western Australia to see the documentation that is available now in Victoria, at least, and presumably soon in other jurisdictions. I hope that New South Wales and Queensland will be able to produce and make this information available soon. The people of Western Australia are entitled to the information which Liberal Premier Kennett makes available to his people - perhaps indirectly. Perhaps Premier Carr and, no doubt, Premier Beattie will soon have that information available for their communities. What is good enough for the people in the east is good enough for the people in Western Australia. It is time that this Minister for Finance and his Treasurer presented the same analysis that was produced in those jurisdictions and came clean. We know that at a federal level, millions of dollars of taxpayers' funds are being allocated to sell this GST.

The Federal Government is spending money on video images and glossy pamphlets in an endeavour to protect the community from the facts. I only want to ensure that in the process of that debate, the facts are not lost. This Minister for Finance should do the decent thing and ensure that the analysis of this GST that has been, and is being been done, in other jurisdictions is made available to the community of Western Australia. The Opposition wants to ensure that this community is not fooled at all by any tricks or stunts being played by this combination of parties at state and federal levels.

Austin Donnelly, the author of many publications on small businesses, said that small businesses would be much harder hit than larger businesses in terms of compliance costs. It would be especially severe on the thousands of one person businesses, including hairdressers, lawnmowing contractors and others. They would be responsible not only for the costs involved in accounting and remitting the GST to the Australian Taxation Office each month, but also the significant costs of keeping track of and claiming credits for the GST they paid on goods and services. Mr Donnelly is effectively speaking for what the coalition regularly claims is its natural constituency, and the Opposition has always known that to be a falsehood.

The coalition Government purports to look after the interests of small business and farmers and yet, by virtue of its support for or its silence about the impact of these issues on small business and farmers, we know coalition members

are being true to their own real calling. They endeavour to protect the interests of big business always, but do not look after the real interests of those people who deserve better than this from both the state coalition and its federal counterparts; that is, the proponents of the GST and their supporters from Western Australia.

Enthusiastic support for the GST has been demonstrated in this House by the Minister for Tourism. We know that the cost of a GST on air travel in this State would be devastating for the tourism industry. Many of us are familiar with the proponents of a GST in other jurisdictions who later argued for its abolition in the face of the damage that it did to the infrastructure of industry. In some provinces in Canada, Governments claimed that the introduction of a GST would do no damage. However, every taxi driver and small business person knew of the damage that this tax would do. The imposition on the people of those provinces was to such an extent that when they got the opportunity to lay their hands upon those Governments, they wiped them from the Treasury benches. In fact, in one case they wiped out almost every member of the Government that introduced that tax. May that fate await people such as Hon Ray Halligan and others opposite because they have supported a situation in which the information is not made available to the people of Western Australia, as it has been made available in other jurisdictions.

Under this proposal, the takeaway food outlets, museums, galleries, sporting events, and the tourist attractions will all become tax collectors for a GST. Small businesses provide most of the services in country and regional centres and they would have to either absorb GST compliance costs, or impose them on the tourists, further discouraging the overseas and domestic visitors. The Minister for Transport also has an obligation, even at this stage of the debate, to recognise the impact of this GST upon the travelling public of Western Australia. This Minister must recognise that any claim by him to the contrary that there will be no impost upon the people of Western Australia -

Hon Simon O'Brien interjected.

The PRESIDENT: Order!

Several members interjected.

Hon TOM STEPHENS: Motor vehicle registration fees will rise to $275 under one scenario. The cost of a driver's licence effectively will rise, tyres will cost more, parking costs will increase; and all these will rise as a result of the cumulative effect -

Hon Simon O'Brien: The current sales tax on tyres is 22 per cent. Everybody has to buy tyres for their car.

The PRESIDENT: Order! The Leader of the Opposition will come to order. Members should not interject. We are on limited time this morning. Not many other members will be able to speak if the interjections continue.

Hon TOM STEPHENS: It may be that the owners of luxury cars - who may be the people Hon Simon O'Brien wants to protect - will be better off as a result of the introduction of a GST. However, those who more typically drive and buy secondhand Holdens or Fords will bear the full cost of the GST. This State Government has been doing calculations on a projected analysis of the GST, and it is incumbent upon this Minister for Finance to make that information available, even if in its draft form, so the people of Western Australia do not have to face the next federal election without having that analysis available to them.

It is not good enough that it be kept secret, or that the taxpayers pay for the analysis to be done and then do not have that information available to them. It is important that the analysis be made available to the people who rely upon their incomes for the basic essentials of life, and who face the prospect of a GST being imposed on those essentials which will cause them hardship.

HON MAX EVANS (North Metropolitan - Minister for Finance) [11.57 am]: What a performance!

Hon Tom Stephens: Table the information.

Hon MAX EVANS: I must admit that I am a typical chartered accountant and I deal with things in black and white, not a lot of rhetoric such as we are hearing today. To provide every permutation and combination of what may or may not happen as a result of GST will result in scare tactics, which is what the Opposition is trying to do. I remember many years ago -

Hon Ljiljanna Ravlich: Hose it down.

The PRESIDENT: Order! Hon Ljiljanna Ravlich must understand that when I say no interjections, I mean no interjections, in particular from her area of the Chamber.

Hon MAX EVANS: I said a while ago that I thought something was wrong with the audio system. Well, we can hear the noise from across the other side which just confirms that.

Hon Tom Stephens: Table the report.

Hon MAX EVANS: There is no report. I would not want any report done on all the 101 "what if" situations. What if a GST is introduced on gambling - will it take 12.5 per cent off lotteries? Will there be compensation? We know some things will be compensated and others will not. When sales tax was imposed on the cars of particular members, there was no adjustment. In other things there will be adjustments. Some items may be zero rated and some may be exempted, but it is all hypothetical. We do not even know the rate. Hon Simon O'Brien said that anyone who has a car must buy tyres, which at present have a much higher sales tax. Hon Tom Stephens should have kept to the facts -

Hon Tom Stephens: You will be better off with your luxury cars.

The PRESIDENT: Order!

Hon MAX EVANS: No, we were talking about tyres; keep to the facts. Hon Simon O'Brien raised one subject and Hon Tom Stephens went off to another. Hon Tom Stephens did not know the answer. If he had the answers to these questions, he would do a darn sight better job.

We must wait and see what adjustments will be made in relation to social services. As occurred in New Zealand and other countries, income tax adjustments will be factored into pensions based on the rate of the tax and the cost of goods. We could have a lot of fun debating those issues, but getting nowhere.

Motion lapsed, pursuant to standing orders.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Membership

On motion by Mr Moore (Leader of the House), resolved -

> That Hon Barbara Scott be discharged as a member of the Joint Standing Committee on Delegated Legislation and that Hon Ray Halligan be appointed in her stead.

SCHOOL EDUCATION BILL

Receipt and First Reading

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

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [12.03 pm]: I move -

> That the Bill be now read a second time.

The presentation of the School Education Bill represents a significant and historic point for school education in Western Australia. The Elementary Education Act of 1871 was passed over 100 years ago and still provides the foundation on which our existing legislation is based.

The Bill provides a completely new legislative and administrative framework by which the operations of government schools, non-government schools and home education can be effectively managed. It reflects a significant amount of development work and consultation with the people of Western Australia. I am privileged to be able to describe its importance and main features.

From about 1980, various attempts have been made to replace or upgrade the 1928 Education Act. Part of the difficulty lay in trying to amend the existing Act rather than developing a completely new Statute. In 1994, in my former role as Minister for Education, I initiated a review of the Education Act and associated regulations. A reference group for the project comprised representatives from the Education Department, the Catholic Education Office and the Association of Independent Schools of Western Australia, as well as teachers, school administrators, parents, the legal profession and the community. The Parliamentary Secretary to the Minister for Education, the member for Roleystone, Mr Fred Tubby, was appointed to chair the review. He brought considerable experience and skill to bear in this work, not only from his role as the Parliamentary Secretary to the Minister for Education, but also as a former school principal.

The significant interest in this Bill reflects the fact that few people in Western Australia are without experience in, involvement with, or support for our schools, whether as students, parents, employers or community members.

In June 1997, the Minister for Education tabled a draft of the School Education Bill 1997 in the form of a Green Bill

for a period of 12 weeks of public consideration and feedback. Six thousand copies of the Bill were distributed widely to schools and parent groups, as well as to organisations and individuals with an interest in education. In addition, a plain English summary of the Bill was prepared and 14 000 copies were distributed.

At 16 locations around Western Australia, 31 meetings were held with members of the public and with principals and teachers. The total attendance for these meetings was just under 1 200 people. Two interactive video conferences were provided for people in country areas who could not attend the public meetings. The consultation materials were published on an Internet site which received over 700 visitors during the consultation period.

Written submissions on the content and structure of the Bill were invited. By the end of the consultation period, 322 submissions were received. The submissions were examined and considered in relation to the proposals in the draft Bill. On 23 October, the Minister for Education tabled a report in the Assembly on the public consultation and the major issues raised.

The importance of public consultation cannot be overstated. It provides us with reliable information about the major issues of interest to the community and, thereby, serves to inform our debate. Most importantly, major revisions of the Bill have occurred in the light of feedback received. Now that the Bill has passed through the Legislative Assembly I am confident that it deserves and will receive the support of this House, since it reflects the results of a healthy and open process of development and consultation.

The Bill cannot satisfy all the demands made for inclusion or deletion of various provisions during the consultation period. I believe it provides an appropriate balance between flexibility, which is necessary for the future so that the new legislation does not require frequent change, and an appropriate legislative structure to manage the diverse educational environment which exists in our community today.

The introduction of the Bill into the Legislative Assembly marked the culmination of a defining year in education in Western Australia. In August 1997, the Curriculum Council was established with the task of developing a curriculum framework which will, for the first time, set out what all school students in Western Australia should know, value and be able to do as a result of programs built around the framework.

The 1997 realignment of the Education Department's central and district offices will more closely focus and strengthen services to schools and students at a local level. The introduction last year of local area education planning provides a more responsive and flexible planning process for education. It focuses education planning on groups of schools in an area rather than on individual schools.

The recent announcement by the Minister for Education concerning new arrangements to secondary schools provides evidence for the benefits of genuine consultation with local communities on education matters.

The Government has initiated major reform in the area of early childhood education. The positive effects of the early childhood education program will continue into the next century with the expansion of preprimary and kindergarten programs and the change to the school entry age.

The introduction of this Bill, together with the implementation of these significant reforms in education in Western Australia, are undoubtedly some of the most important initiatives of this Government. Although government exercises a serious responsibility towards the children of Western Australia beyond the bounds of this legislation - for example, in health, welfare and justice - I argue that education is the biggest responsibility that we have towards the development of our children. Schools are the institutions by which societies have engaged special people to carry out the transmission of our knowledge and culture. The task of schools is to provide the most up-to-date curriculum in an environment in which children can develop intellectually, socially and physically, preparing them to exercise a productive and fulfilling role in society as adults.

When the School Education Act comes into effect, it will be only the fourth piece of public education legislation in our State. The Elementary Education Act 1871 was firmly based on an English Statute with a similar name. The Education Act 1928 provided a consolidation of both the 1871 Act and its successor, the Public Education Act 1899. The present Education Act has been subject to over 50 amendments, which means that very little of its original 1928 version remains. The legislation now lacks organisation, and is in parts outdated and cumbersome or in conflict with policy positions of the Government or the Education Department.

The new Statute will be called the School Education Act. Separate legislation already exists for the Curriculum Council, the vocational education and training sector and each of the universities. The generic title of the current Education Act made sense in 1928, since it contained provision for both teacher education and technical education, and the Education Department managed both government and non-government schooling. Clearly, things have changed markedly in 70 years; indeed, many of us can reflect on our own school days to identify significant differences.

In the early 1930s, there were over 900 government schools in our State. Many were small, one-teacher schools throughout the southern half of Western Australia serving the agricultural, mining and timber areas. There were relatively few secondary schools or non-government schools. Classroom instruction was typically delivered in rooms with ordered rows of desks. The original Act described compulsory attendance requirements in terms of children's capacity to walk distances of up to three miles. The regulations still contain provisions for teachers to air classrooms during recess and for principals to lay and set fires between May and October.

Today there are more than 1 100 government and non-government schools throughout this vast State, catering for nearly 350 000 children. We have demand for specialist schools at all year levels, and can be proud of a schooling structure which caters for the diverse needs of all children including those with a disability, those with special talents, and children from differing cultural and language backgrounds. We take computers, telecommunications, or audiovisual aids in our schools for granted, and many specialist teachers are in practical, vocational and creative areas. Governments are faced with demands for new schools in rapidly growing urban areas and we have a huge investment in buildings, facilities, staff and resources for schooling.

The Education budget now exceeds $1.3b. In the 1928 debate it was reported that the annual Education budget was £750 000. Even allowing for inflation, this highlights the increased demands which our society has made for high quality educational instruction for our young people.

Objects and structure of the Bill: I turn now to the content of the Bill, which is based on four key objectives -

> that every Western Australian child has a right to receive a school education;
>
> that parents have a right to choose the form of education that best suits their child's needs, whether at a government school, a non-government school or in a home education setting;
>
> that parents have a responsibility to work together in partnership with schools for children's schooling to be successful; and
>
> that a government schooling system must be provided to meet the educational needs of all children.

The first principle underlines the obligation which is placed upon parents and government to ensure that all children receive education throughout the primary and junior secondary years, and an entitlement that children have access to education from kindergarten to year 12. While the Bill requires all parents to ensure that their children have access to an educational program, the second principle underlines their right to choose the mode of schooling which they think best suits their children. They may choose to enrol at a government or non-government school, or provide an alternative program through home based education.

The third principle reinforces that for a child to succeed at school, the cooperation and support of the child's parents are essential. In Western Australia, we have an outstanding record of this cooperation and support. Most parents demonstrate active encouragement and support for their children and their children's school. It is clear that the support of parents and citizens associations and school decision making groups in government schools, and parents and friends groups and school councils in non-government schools is invaluable. They provide our schools with forums for discussion of educational matters and contribute to tangible improvements to school facilities.

The Bill reinforces the individual responsibilities of parents by making it clear that there are obligations concerning enrolment and attendance matters which parents must shoulder. Parents' interests are protected by ensuring that they have access to complaint and dispute resolution processes for which the Bill explicitly provides.

The fourth principle reinforces that public schooling is a major responsibility of government and that provision must be made for the educational needs of all children. Since 1893 when it was established, the Education Department has maintained a distinguished record of managing education in this State.

The seven parts of this Bill form a structure that can be easily understood and applied throughout the lifetime of the legislation. Five parts are of particular interest. Part 2 contains provisions which affect all students. The Bill's compulsory education requirements may be met by parents enrolling their children at a school or by registering as home educators. Also appearing in this part are a number of enrolment and attendance provisions for children at government or non-government schools and the means by which absenteeism is to be managed. The establishment and operation of government schools is described in part 3, which is the longest part of the Bill, containing eight divisions. These divisions include enrolment provisions, discipline matters, provisions for financial management and the functions of the chief executive officer, principals and teachers. The participation of parents in government schools is described through the sections related to school councils and parents and citizens' associations. Part 4 of the Bill makes provision for the registration of non-government schools and school systems, while part 5 describes the registration and operation of community kindergartens. Part 6 contains various administrative matters, including the powers of the Minister for Education, the operations of the Education Department, and the employment of staff

in the Education Department. Parts 1 and 7 respectively provide the preliminaries and miscellaneous provisions, while two schedules describe transitional and consequential provisions.

In view of the length of the Bill, it is not possible to go into every detail in the time available. I will spend some time on significant aspects. Detailed clause notes will be provided for all members as soon as practicable.

Enrolment and attendance: The notion of a comprehensive and universal kindergarten to year 12 education was not envisaged when the current Act came into effect. The Bill has been prepared on the basis that all children in the State have an entitlement to access pre-compulsory, compulsory and post-compulsory education programs. As already stated, the Government is in the process of providing increased access to pre-compulsory education and the school entry age will change in 2001. To reflect the importance society places on school education, the Bill maintains a commitment to compulsory education for children aged between six and 15 years. This is not changed from the existing legislation, although adjustments to these ages are provided for as the changes to the school entry age take effect. Allowance has been made in the Bill's definitions for the impact of this on the ages during which children are in their compulsory and post-compulsory education periods. While a non-compulsory education system would make for a simpler piece of legislation, the Government assumes a significant responsibility on behalf of the people of the State. It enacts this responsibility by ensuring two things. The first is to provide access to an appropriate educational program for each child, and the second is to charge parents with the responsibility to ensure that each child is enrolled in an educational program which satisfies the requirements of the Act. The current Act allows for children who are 14 years of age to be exempted from the requirement to participate in compulsory education. The Bill retains an exemption provision, but enables the Minister to exempt a child of any age, provided the exemption is in the best interests of the child. There is power to revoke the exemption if there is a change in the circumstances under which it was granted.

The Bill makes provision for enrolment information to be collected by schools, including both custody information for estranged families and information about the vaccination status of the child. The Green Bill included a penalty for the provision of false information which has now been removed. In the public consultation period, concern was expressed about the definition of "parent" and attention has been given to the way in which the term is used throughout the Bill. The definition makes allowance for those situations in which the natural parents of a child are separated. In such cases they might exercise differing responsibilities for the child's education. Family Court orders may influence these responsibilities. In some decisions, such as enrolment at school or curriculum choices, both parents have an interest. In other cases, such as provision of reasons for non-attendance, the information should be the responsibility of the parent with day to day responsibility for the child. The Bill makes this separation for these and other relevant matters.

Recognition is also given to the role which responsible adults, other than parents, take in the care of children. In some communities a member of the extended family exercises a supervisory role over the child. The drafting enables such a person to be acknowledged for the contact information held by a school, provision of reasons for non-attendance and authorising an alternative attendance or participation mode for the student. Comment was also received about a relatively recent phenomenon; that of 'independent minors' or children who because of family circumstances live away from their families and are not under the direct supervision of parents. The Bill has been amended to recognise these children.

The attendance provisions of this Bill are much more flexible than those of the 1928 legislation. While many students attend their schools on a daily basis, there are many who spend part of their school time elsewhere, such as in work experience, TAFE classes, enrichment activities or other special educational programs. To acknowledge this increasing flexibility, the Bill provides a new approach to school attendance and participation. Where a student will spend a regular or fixed time away from the school site, but still be enrolled at the school, the principal and parents will be able to enter an alternative participation arrangement.

Home education: A growing number of parents provide home based education for their children. The Government recognises that they should have the right to exercise that choice. Provided the appropriate approvals are obtained, the Bill provides for the compulsory education requirement to be met by home education. It is unfortunate that the drafting of the Green Bill caused some alarm and strong reaction among those involved in home education. It has never been the intention of the Government to diminish access to this option, nor to change significantly the operation of home education in Western Australia. This portion of the Bill has been significantly altered in the light of feedback. While the extent and nature of the changes might not please all those who made submissions, the Bill allows greater flexibility while holding to three essential requirements. These are -

> that parents have a right to automatic recognition as home educators;
>
> that there is an obligation on home educators to provide evidence that their child's educational program meets a minimum standard in relation to other children of similar age and ability; and

that, in extreme circumstances, the Minister has the capacity to cancel the registration of the home educator, in which case the child should be returned to a school enrolment.

The inspection provisions of the Green Bill have been replaced by an evaluation of the child's educational progress which is to be made by a home education moderator. This person will have the role of providing a report for the chief executive officer on the child's educational progress. The responsibility to arrange such visits will be given to the home educator, with the requirement that an evaluation be carried out at least once each year. Subject to satisfactory progress, judged in relation to the curriculum framework, the registration will be able to continue indefinitely. If the parent has cause to be dissatisfied with an evaluation report or any cancellation of registration following an evaluation, the Bill provides access to an independent review and advisory process. A home education advisory panel will contain representatives of both home educators and the chief executive officer. The Minister will, on receipt of a recommendation from the panel, have the power to confirm, vary or overturn the report or decision. During 1998, a home education advisory board will be established. This will have a membership which is representative of the home education movement, as well as members to represent the education agencies. Its purpose will be to provide guidance both for the Minister and home educators concerning the provision of home education in Western Australia. As a result, there will be opportunities to provide appropriate support, advice and guidance for home educators. The board will have a valuable role in the implementation of the provisions of the new Act.

Fines and penalties: In the public consultation phase, there was considerable reaction to the number and extent of penalties contained in the Green Bill. The view was expressed that the legislation should focus on a positive approach to dealing with non-compliance issues and minimise, eliminate or reduce the fines. Most attention was given to the penalties associated with absenteeism, to which I will turn in detail in a moment.

The penalties have been reviewed in light of feedback and wherever an appropriate alternative response is available the penalty has been removed. In some other cases, the penalties have been modified. Penalties deleted from the Bill include those for failing to notify change of enrolment particulars, failing to notify cause of absence, and provision of false information at the time of enrolment. Changes to the operation of school attendance panels have led to the removal of penalties for failure to attend, failure to swear an oath or provision of false information.

For some offences involving the protection of children, the security of school premises or the handling of sensitive data, the penalties have been brought into line at the level of a $5 000 fine or six months' imprisonment. Where penalties are to be imposed, both the Sentencing Act and the Young Offenders Act make clear that a range of sentencing options is available to magistrates. Further, all financial penalties are taken to be maximum figures, in accordance with the Sentencing Act.

Absenteeism: There are many reasons some children fall into a pattern of repeated absence from school. In a number of cases, wilful absence can be traced to an alienation from schooling due to poor achievement, family circumstances or behavioural causes. In some cases, parents or children simply defy the requirement to participate. This area is one in which the need for partnership between school and family is greatest.

Although we should acknowledge that a number of schools provide successful alternative programs or truancy intervention strategies, cases will arise where, despite the best efforts of schools and parents, children stay away. Any unauthorised absence is of concern because of the valuable educational time that is lost and because the absenteeism of some children is associated with inappropriate behaviour in the community. In order to complement the compulsory education requirement, the Bill makes it clear that it is an offence if the attendance or participation requirements are not complied with, and provides for a fine to be imposed. Without an offence provision, there would be no compulsion on parents or children to participate in the intervention strategies that the Bill provides.

Significant attention has been given to ways of dealing with absenteeism to minimise or avoid prosecuting parents or their children. The establishment and operation of school attendance panels is a major intervention strategy which has been well received. As an independent body its task will be to examine the reasons for a child's absence and to provide appropriate advice to the child, the parents and the school, with the aim of securing the child's regular attendance and participation in the educational program. However, this strategy can work only if there is appropriate judicial force to support it. Referral of a case of absenteeism to court is to be a last resort. Nevertheless, that option must be available. The Bill makes it clear that no case can proceed to court unless a school attendance panel or the chief executive officer provides a certificate to declare that all reasonable and practical steps have been taken to secure compliance with the attendance requirements and, further, that breaches have still occurred. This will occur only if the child or the parents have little regard for the attempts that have been made to solve the absenteeism problem.

Comment is in order about the penalties for absenteeism. In the 1928 Act, the response to chronic truancy was to make a child a ward of the State. In those days that meant the child was placed in an institution or detained, with the parents being responsible for some of the costs.

Penalties can be stated only in terms of fines or periods of detention. The maximum penalty on parents has been reduced to $1 000, with a daily penalty of $25, for failure to ensure the child's attendance or participation at school. There has been concern about the potential use of fines against families that do not have the capacity to pay. Should a case be brought before a court, our State's sentencing laws give discretion for the magistrate to take into account the capacity of the offender to pay, as well as a range of other sentencing options.

The penalty for a child has been reduced from $100 to $10 to make it clear that it is not punishment that is sought, but compliance with the attendance requirement. The existence of this penalty is designed solely as a trigger for intervention in extreme cases when a child defies all efforts by parents and schools to attend school. The absence of a sanction would mean that there was no compulsory education. To limit a sanction to parents would fail to account for the fact that in early adolescence some children take these matters into their own hands. A sanction in the form of a monetary penalty makes it clear that failure to cooperate with a school attendance panel can lead to the intervention of the justice system as a last resort. However, a child's case need not reach the Children's Court. The Young Offenders Act enables offences to be dealt with by means of a caution or by referral to a juvenile justice team. It is also worth noting that the Criminal Code makes allowance for the different ages at which children are considered legally able to answer for their own actions.

Access to government schools: Many parents have made it clear in recent years that they want to exercise choice of schools within the government sector. Although this choice needs to be limited to the physical capacity of schools to provide accommodation and the availability of appropriate educational programs, the Bill allows for flexibility in setting intake boundaries for government schools. The chief executive officer will decide whether to establish a boundary around a school. Parents will have a greater choice of schools where there are no boundaries. This approach has been adopted in recognition of the desire of many parents to choose between government schools according to the programs they offer and the increased mobility of the population.

The Bill provides clarification of the role of the Minister for Education in the establishment, classification, amalgamation and closure of government schools. If the Minister decides to close a government school, it is necessary to provide 12 months' notice of the closure. By agreement of the parents at the school, closure may be effected in less than the prescribed 12 month period.

The public consultation phase on the Green Bill in 1997 overlapped to a certain degree with the recent development and release of the Education Department’s local area education planning framework. As a result, attention was drawn to the desirability of consultation with local school communities concerning any proposed closure or amalgamation of government schools. Accordingly, the Bill was amended to require the Minister for Education to consult with the parents, the school council and the parents and citizens association concerning the effects of a proposed closure or amalgamation.

Curriculum: The curriculum framework authorised under the Curriculum Council Act allows considerable freedom of choice for both non-government schools and home educators in philosophy, content and methodology of their educational programs. The Bill provides that in government schools the chief executive officer will carry responsibility for the curriculum, subject to the requirements of the Curriculum Council Act. The community wants schools to be places where children are excited and stimulated by what they learn. By the same token, parents trust that their children will not be exposed to inappropriate influences. The Bill makes clear that for government schools the undue promotion of political, religious, industrial or advertising information is not allowed beyond what is a reasonable balance in the curriculum. Principals will be required to intervene if any person or organisation uses the school as a forum to disseminate inappropriate promotional information. The Bill provides also for special religious education to be provided in government schools and makes allowance for schools to include prayers and songs which are based on religious, spiritual or moral values in school activities. There is allowance for parents to request that children be withdrawn from parts of the curriculum, including religious activities, on the grounds of conscientious objection.

The Bill makes allowance for children to be excused from attendance at government schools at certain times of the year if there are significant religious or cultural events which relate to them. Examples include funeral ceremonies involving Aboriginal people and the period of Ramadan for Muslims. Relevant dates and circumstances will be prescribed in regulations.

Education of children with a disability: There are many children with identified special needs in our education systems . Educational programs for these children can make significant demands on physical, human and financial resources. In the government school sector, a set of social justice policy statements of the Education Department provides a clear message that such children should have the same rights to quality education as those in mainstream classes. The Bill provides an administrative framework for decision making about educational programs for children with a disability. This will give parents a clear idea of the relevant procedures and their entitlement to receive information about such decisions.

If a child with a disability is enrolled at a government school, the principal is required to consult with the parents and to take their wishes into account in determining the content and implementation of the child's educational program. In making a decision about whether an educational program is available or appropriate for a child with a disability, the chief executive officer is required to consult with the child's parents and to take into account their wishes. If necessary, a determination is to be made, taking account of the benefits and detriments for all persons concerned, any additional cost involved in providing a program for the child and the effect of the child's behaviour, disability or other condition.

The reasons for the chief executive officer's decision are to be given in writing to the parents. Where they disagree with a determination, the parents have the right to seek an independent review. Recommendations as a result of the review are to be made to the Minister for Education by a disabilities advisory panel. It will be made up of members who have appropriate skills and attributes. Additionally, the potential for parents to exercise their right to take action under equal opportunity or discrimination legislation provides an appropriate check on the way in which these decisions are made and reported.

Concern was expressed during the public consultation phase about the term "disability". It has been modified to match the corresponding definition in the Disability Services Act. The effect of this is that consideration is to be given to the effect of the child's condition in relation to the need for support services and his or her capacity for communication, social interaction, learning or mobility, rather than to the condition itself.

During the public consultation phase, people sought greater detail about the criteria which are used to determine whether an educational program is appropriate in relation to a child with a disability. In view of the possibility that the term "appropriate education program" may be applied to any individual child, it was not considered appropriate to provide greater detail.

Suspension and exclusion of students in government schools: The Bill makes provision for regulations to be made concerning the discipline of students in government schools. Under the current regulations corporal punishment is prohibited in government schools and this will continue to be the case under the new regulations. Many schools have developed effective strategies for managing student behaviour. It is still necessary, however, to provide support in the Act and regulations to deal with difficult cases. The Bill continues the general provisions of the current Act which authorise suspension and exclusion of those students whose behaviour is inappropriate. Where a breach of school discipline occurs, the school principal will be authorised to suspend a child from attendance at the school up to a maximum time prescribed in the regulations.

Principals will be able to recommend exclusion of a student from a school for significant or persistent breaches of school discipline, or for behaviour which disrupts the education of other students. Exclusion recommendations are to be considered by a school discipline advisory panel, whose function is to advise the chief executive officer on the matter. On receipt of a recommendation from the panel, the chief executive officer is empowered to make orders for a partial or complete exclusion of the child from attendance at the school, or to direct the child to attend another school. The Bill encourages the chief executive officer to make arrangements to ensure an on-going educational program for the child. Principals are given authority to exclude students of post-compulsory age for unsatisfactory attendance or if the student is not participating in an appropriate way in the educational program. This inclusion provides a strong message that enrolment in post-compulsory is a privilege rather than a right. A student excluded under this provision retains an entitlement to seek enrolment at another school.

Fees for instruction and charges in government schools: This Bill provides a welcome opportunity to clarify issues relating to fees for instruction and charges associated with government schooling. In the late 1990s, the community expects schools to provide a variety of relevant educational activities with the latest methods and technology. The 1928 Act was not framed with such demands in mind, since the resources needed to deliver schooling then were minimal by comparison. Apart from some specific circumstances, no fee or charge may be imposed or collected for the cost of providing an educational program in a government school. Fees for instruction, as prescribed in regulations, are able to be collected for overseas students and some persons aged over 18 years, or for other students when instruction is provided by persons other than the teaching staff of a government school.

Under the Bill, government school principals will be authorised to determine a charge to parents for the materials and services which are directly used by students in the school's educational program. The school must be able to explain the nature of the charges to parents and to demonstrate how they benefit the students. Parents will also have a role in scrutinising and approving charges through their representation on school councils. Charges must be no greater than a limit to be set in the regulations. These charges are enforceable in that they can be recovered through legal processes, but the Bill is explicit in saying that no child is to be deprived of an educational program if the charges are not paid by the parents. Further, the regulations will empower the Government to put in place means of addressing financial hardship for individual parents.

It is not the Government's intention that school charges are to provide any more than a relatively minor contribution towards the cost of those materials and services that are of direct benefit to the students. In the same way that calculators, rulers, textbooks, pens and the like belong to the student, there are consumable materials and services that it makes sense for the school to supply on behalf of all students and for some of these charges to be recovered. Examples include art and craft materials, photocopied material for learning activities, cooking ingredients, book hire schemes, and library resources. There has been a ceiling for some time on the maximum amount which can be charged in years 8 to 10 for a school's standard educational program. The current amount of $9 in primary schools, which has been in place for many years, is not a realistic amount

At the request of the Minister for Education, the Education Department established a panel of people to seek appropriate advice from schools and parents on what the charges should be, taking into account proper information collection and deliberation. The Minister has indicated that the regulations will prescribe a maximum charge not exceeding $60 for primary students or $235 for secondary students. Other payments will be voluntary in nature and may apply to high cost optional courses or activities beyond the standard educational program of the school. Participation in these activities will be dependent upon the payment of the relevant costs.

Before leaving financial matters, I point out that the Bill contains an important new provision for government schools to establish special funds for building or library purposes, or for a school foundation fund to benefit the school generally. In the past, school communities have undertaken fundraising efforts directed towards the cost of capital works, including canteens and performing arts or music centres. The ability to establish such funds will assist them in attracting tax deductible status for donations. Further, many of our government schools are developing some of the healthy traditions of their non-government counterparts by having a body of past students or corporate sponsors who are keen to support schools in tangible ways. The potential for government schools to attract bequests and tax deductible donations will address a need which has been identified for some time.

The Bill enables limited access to sponsorship and advertising support in government schools. This has been an area of ambiguity and it is not appropriate to exclude the support of local enterprises from school activities. Schools will, however, need to be protected from commercial exploitation. The Bill requires the Minister to make decisions about these matters in ways which are consistent with the best interests of students' education in government schools. It is important to note that neither the school charges nor the school funds management approaches are predicated on a move to get schools to fund themselves. As noted earlier, education spending has risen well ahead of the inflation rate over a 70 year period. Between 1993-94 and 1996-97, this Government has increased spending on government school education by $211m or an average of 6.6 per cent each year. Clearly, the Government remains committed to a high level of funding for the education sector.

Parent and community involvement in government schools: For the past decade, the Education Act has contained provision for school decision making groups. This has been a means by which parents and community members could become involved in the management of their local government schools. The Bill maintains this important role and allows for further participation at schools where there is a readiness and willingness to do so.

When the new Act comes into force, all school decision making groups will become school councils. They will have a role in school planning, dress codes, student behaviour codes, endorsement of school charges and implementation of religious activities. Provision is made for their roles to be extended, on request, to include participation in the selection of the school principal and other functions to be specified in regulations. Where appropriate, school councils may seek the permission of the Minister to become incorporated and take on further prescribed functions. Conditions for the establishment, composition and operation of school councils will be included in the regulations. It is intended that membership will include the principal, parents, community members, staff and, in certain circumstances, students. The majority will be parents and community members.

There is no doubt that in the future, government schools will continue to move to increasing levels of self-management and local decision making. Local area education planning and the realignment of central and district offices sets a clear direction for the management of education in the future by focusing education planning and support closer to schools. Similarly, the curriculum framework will allow for locally determined curriculum directions and a locally managed learning program to suit the needs of the individual school. Schools now have closer links with local communities, particularly business and industry.

The provisions for school councils in this Bill allow for greater flexibility in the way government schools are managed, to reflect local community needs and circumstances. Parents, staff and the wider community will be responsible for making decisions about the management of schools locally. The Bill continues the provision for parents and citizens' associations to be the main avenue for community support to be provided to government schools. It is appropriate here to acknowledge the tremendous efforts of this State's P & C associations and all those members who have worked so hard to build a sense of community around each government school.

The Bill requires each association to be incorporated under the provisions of the Associations Incorporation Act. Most associations already satisfy this requirement. Constitutional provisions and changes will need to be approved by the Minister for Education. The Bill provides a power for the Minister for Education to initiate winding-up proceedings if an association is not complying with the requirements of the School Education Act or if it fails to follow a direction given by the Minister. This power also exists in relation to incorporated school councils. The provisions in the Green Bill about "other associations" has been retained. There is no desire to promote the growth of such associations but rather to provide a way of controlling their operations.

Non-government schools: The Government has a responsibility to ensure that a certain minimum standard is maintained for children who attend non-government schools. The Bill provides for a comprehensive scheme of registration and, in doing so, provides a framework to validate processes which have been used in Western Australia for some time. For non-government schools, the registration and re-registration procedures will require the governing bodies to account for the quality of the educational programs which they provide. Further, the Minister may seek information of an educational, financial or statistical nature from these schools. To enable the Minister to monitor these matters over time, the Bill has a requirement that non-government schools be re-registered at least every seven years.

In terms of financial accountability, the Bill is explicit in identifying accountability on the part of the Minister and the non-government schools for the public moneys which are allocated as part of the Education budget. The Minister will be able to enter agreements with systems of non-government schools. These agreements will enable some of the Minister's registration and accountability functions to be devolved to the systems themselves.

Community kindergartens: The Bill provides that independent preschools which exist under the current Act will be regarded as non-government schools in the future, and that preschool centres and care centres which have teachers provided by the Education Department will be called community kindergartens. The Green Bill was drafted on the basis that no new community preschools would come into existence. In view of some objections to this approach, the Bill has now been amended to enable new community kindergartens to be registered. The permit system of the 1928 Act has been replaced by a registration system with similar provisions to those outlined for non-government schools.

Administration: In view of the flexibility needed to allow for changes in the way schools are managed and curriculum is delivered in the future, the Bill provides a power for the Minister to exempt a school or group of schools from certain provisions, subject to conditions and the publication of a notice in the *Government Gazette.* Such a notice is to be laid before Parliament in the same way as for regulations. There are some obvious examples of schools for which such flexibility might be required or desirable. They include senior colleges, the School of Isolated and Distance Education and Schools of the Air. New government schools at Ballajura, Warnbro and Clarkson are being encouraged to consider new organisational and curriculum delivery structures.

It is conceivable that when new schools are created in the future, there may be a need to provide for exemptions from certain provisions applying to other schools. This is clearly a power which needs to be used circumspectly. The requirement to supply details to Parliament provides an appropriate accountability mechanism. The Bill makes provision for there to be departments of the Public Service to assist the Minister in the administration of the Act. For the management of government schools, the Bill enables the formulation and promulgation of CEO's instructions. These will provide the policy and administrative framework in the Education Department to supplement the Bill and its supporting regulations.

Staff employed in the Education Department: This Bill has been prepared in the knowledge that many provisions in the current Act and regulations can be better managed through industrial legislation, as well as the various awards and agreements which have been developed in recent years. Under the current Act, teachers in the Education Department are employed by the Minister for Education. The Bill provides for their employment in the department. Consistent with the provisions of the Public Sector Management Act, the Bill provides that employment matters be managed by the chief executive officer.

Section 7C of the 1928 Act has proved a controversial section in terms of its application. No provision of its kind is included in the Bill. Matters related to discipline and substandard performance of teachers are to be managed using part 5 of the Public Sector Management Act. This will be consistent with processes applied to other public sector employees. Staff in the Education Department will be employed in four categories: Public service officers; teaching staff; other officers, such as, library officers and school administrative officers; and wages staff. The Bill recognises at least two classifications within the teaching staff of the department, namely teachers and school administrators. The management of teaching staff in government schools is stated in terms that enable greater application of public sector wide standards, particularly in relation to substandard performance and discipline. The Bill provides lists of functions for the chief executive officer, principals and teachers in government schools. These will serve to clarify the roles and responsibilities of these officers in a time of decreasing centralised control over government schools.

Review and advisory processes: In the public consultation, a number of requests were made for the inclusion of an independent complaints and dispute resolution process for parents. These requests appeared to be based on a desire to have access to the reasons for decisions and to know that the decision making processes were fair. Although the majority of decisions made about students occur with the full support and cooperation of parents, there are times when disagreement occurs or a parent seeks a review of an administrative decision. The Bill requires both complaints and dispute resolution processes to be developed and made available for parents in both the government and non-government schools sectors.

It also contains review processes which are intended to ensure that administrative decisions are made in ways which are open and accountable. Following the revision of the Bill, there are six types of review mechanisms -

> school attendance panels may be established to consider matters related to absenteeism and to facilitate the return of children to normal attendance;
>
> home education advisory panels may be established if a parent seeks a review of a home education evaluation report or a decision to cancel home education registration;
>
> disabilities advisory panels may be established whenever a parent seeks a review of an enrolment decision concerning a child with a disability;
>
> school discipline advisory panels will be required to consider the case of any child for whom exclusion is recommended;
>
> non-government school registration advisory panels will be formed to review decisions by the Minister to refuse to register or re-register a non-government school; and
>
> community kindergartens registration advisory panels will be formed to review a decision by the Minister to refuse to register a community kindergarten.

The Minister will also have the capacity to establish an advisory panel for any matters relevant to the legislation. The membership of these panels is to be determined by the Minister, taking account of the attributes, skills and other qualities needed to make decisions appropriate to each case. In general, a parent or community member will be included in each panel, but the specific membership profile will be provided in the regulations. It will be possible for panel members to receive allowances or remuneration in relation to their work, provided they are not already public sector employees.

To underline the need for open and accountable management, the Bill has been amended to include a review by the Minister or a delegate. In this provision, the Minister has discretion to examine any complaint concerning decisions made under the Act about an individual student, whether in a government or non-government school. Any such review is limited to the process and information by which the decision was reached, taking account of the various mechanisms already available under the Act. Once the Minister has considered the matter, there is scope to give advice about the decision making process to the person who made the original decision. This function may be delegated to a person other than the chief executive officer. The discretion to do this rests with the Minister.

There is provision for review of the new Act within five years of its commencement. This is a highly appropriate approach to new legislation of this magnitude and will give the opportunity for the major policy settings to be examined and, where necessary, for changes to be made. The Bill has been written to complement other laws of the State, particularly in relation to public sector management, financial accountability and industrial law.

Process for completion and implementation of the Bill: It is planned that the new School Education Act will come into effect from the beginning of 1999, with the passage of the Bill to be completed during 1998. I look forward to an informed and high quality debate on issues of fundamental importance to the people of Western Australia both now and in the future.

There is considerable interest regarding the regulations which will be developed to support the Bill. This work is continuing during 1998. The Government has given an undertaking that relevant interest groups will be consulted in the development of the regulations and that the draft regulations will be made available for public comment prior to being made.

In conjunction with the debate on the Bill and the making of regulations, attention will also be given to implementation strategies to accompany this legislation. Although the Bill represents a new construction for the law relating to school governance, it does not require a significant change in the day to day operations of schools. It is envisaged that implementation issues will continue to be identified during the early life of the new legislation and that changes can be managed appropriately.

In addition to providing relevant information for school administrators and representatives of the government and non-government school sectors, information will be prepared for members of the public to explain the major changes, including rights and responsibilities for parents and other members of the community.

In conclusion, I report to the House that the Bill has been subjected to a federal competition policy analysis and is deemed to contain no unnecessary restrictions on competition. The development of this Bill has been a lengthy and complex task. I acknowledge the efforts of those who have brought the review to this stage. I thank the members of the reference group for their significant contributions and, particularly, the chair of that group, the member for Roleystone and Parliamentary Secretary to the Minister for Education, Mr Fred Tubby, for their energy and commitment in this work.

A small but hard working project team, consisting of Mr Ken Booth and Mr Wayne McGowan, has consulted extensively with a range of interest groups and provided policy advice and drafting instructions for the preparation of the Bill. Close consultation has occurred with the Education Department, the Catholic Education Office and the Association of Independent Schools of Western Australia, all of which have provided valuable support and advice.

The Bill reflects careful thought and planning, and a clear organisation and structure, and it provides the basis of a comprehensive legislative framework for the governance of schooling in this State, not just for the present but well into the next century. I commend the Bill to the House.

Adjournment of Debate

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [12.45 pm]: I move -

That the debate be adjourned.

The purpose of this motion is to provide the House with an opportunity to consider a motion by my colleague Hon Ljiljanna Ravlich to refer this Bill to a standing committee of the House. I hope that meets with the convenience of the Leader of the House.

Question put and passed.

The PRESIDENT: The Leader of the Opposition sought some advice from me earlier about the motion that was intended to be moved by Hon Ljiljanna Ravlich. I must clarify that earlier advice and I am happy to do that during the lunchtime suspension.

BILLS (2) - ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills -

1. Real Estate and Business Agents Amendment Bill.
2. Rail Safety Bill.

BILLS (3) - RETURNED

1. Government Railways Amendment Bill.
2. Criminal Law Amendment Bill (No 2).
3. Supreme Court Amendment Bill.

Bills returned from the Assembly without amendment.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had disagreed to amendments Nos 1 and 2 made by the Council, and had disagreed to amendment No 3 and substituted a new amendment for the reasons set forth in the schedule annexed.

MINING AMENDMENT BILL

Second Reading

Resumed from 25 June.

HON MARK NEVILL (Mining and Pastoral) [12.49 pm]: The Mining Amendment Bill 1998 is supported by the

Opposition. Our support for this Bill has been at the request of the Chamber of Minerals and Energy and, in particular, Robe River Iron Associates.

However, it will have an effect across the State. The Bill changes the tenure of miscellaneous licences and it provides for longer term miscellaneous licences and "as of right" renewals. Miscellaneous licences are currently issued for five years and are used in the mining industry for a form of tenure on which railways, powerlines, water pipelines, gas pipelines and roads can be constructed. A mining lease allows mining of ore from the ground and its tenure is 21 years with a 21 year renewal period. The general purpose lease also has a 21 year lease with a 21 year renewal. General purpose leases are used for mine plant and equipment and tailings dams.

That begs the question: Why do miscellaneous licences cover only five years? Although I have not done much research on it, I can guess the reason. Prior to 1960 licences were not required for bores and water pipelines to mines. Most power was generated on site, roads were usually gazetted under the Land Act and gas pipelines did not exist. A miscellaneous licence would have covered the stacking of wood used to generate power via a boiler or to operate condensers to change salt water to freshwater and for other minor purposes. That is the reason they typically covered a short period and were not used very often. General purpose and mining leases were probably sufficient. In the 1960s, with the development of the iron ore industry, we saw the construction of long water pipelines, railway lines, private roads and powerlines. They were dealt with under agreement Acts and Land Act leases. Therefore, there was probably still no need to change the duration of a miscellaneous licence from its historical five years.

The real need to reconsider miscellaneous licences results from the Native Title Act. Land Act leases generally involve resumption of land and probable extinguishment of title. That would definitely have happened a few years ago, but we are looking at the revival of freehold title, and it is now a moveable feast. Mining Act leases and licences do not extinguish native title. Therefore, Aboriginal people who have an interest in what is happening on land subject to native title claim would be far happier dealing with Mining Act leases than Land Act leases that would potentially extinguish native title. The changes contained in this legislation are a preferable way to accommodate powerlines, roads, rail and so on. This legislation will also make miscellaneous licences consistent with general purpose leases and mining lease tenements in that they will now be for 21 years. As I said, the way that miscellaneous licences are now being used was not contemplated prior to 1960.

This Bill will create two types of miscellaneous licences. The new licences will be for 21 years with an automatic right of renewal for 21 years. The right to negotiate under the Native Title Act will be at the beginning and at the end of that 42 year period, unless the terms and conditions of the licence change. I presume that could also trigger the right to negotiate process.

Existing miscellaneous licences cover five years. This legislation will ensure that they will be subject to the native title process at the first renewal stage, but there will be an automatic right of renewal every five years; that is, the right to negotiate will occur at the first renewal stage. It is not ideal to have two different types of miscellaneous licence, but it appears there is no way around that. The situation may change if the Native Title Act is amended. However, we cannot foresee what might occur with that legislation, but hopefully we can bring the two licences into line.

The Australian Labor Party, including its federal members, believes that mining companies should have the ability to renew miscellaneous licences without continually revisiting the native title process. As I said, this legislation will apply across the State. However, Robe River Iron Associates will spend $1b on the West Angelas iron ore project. Part of that project involves a $400m railway line from Cape Lambert inland to the West Angelas deposit. If miscellaneous licences applied, they would need to be renewed every five years, and that would make the bankers very nervous. Clearly that is not fair. That project has important implications for the State -

Hon Greg Smith interjected.

Hon MARK NEVILL: The complainants will have the capacity to put those licences through the native title process at the first renewal stage. Under the new miscellaneous licences, that process will be available again after 42 years. Under the existing miscellaneous licences, if the terms and conditions were to change at any time during that five year automatic renewal period, I understand that would trigger a right to negotiate process.

This project has immense benefits for the State. It will involve 1 500 jobs during the construction phase and 450 full time ongoing jobs.

Sitting suspended from 1.01 to 2.00 pm

Hon MARK NEVILL: One of the more recent benefits in the Pilbara has been the provision of jobs for Aboriginal people. Hamersley Iron has set the standard with the program it has been running for a number of years. BHP is also providing jobs for Aboriginals. If Robe River Iron is not already involved I hope that it will also endeavour to ensure that Aboriginal people are trained and employed. I have no doubt that employment is of great value to Aboriginal

people, often even more value than royalty payments. We are talking about people of differing levels of sophistication around the State, but in the desert areas to the south of Halls Creek, Aboriginal people receive royalty payments but they do not last. That money is usually gone within a few weeks, and jobs will be of far more benefit to those people in those communities. It is probably a different situation in the Pilbara. However, mining companies that provide jobs for Aboriginal people do everyone a great service. I hope that will be the case with Robe River Iron.

There is also potential for a new pellet plant to be built at Cape Lambert. I hope that project eventuates and that more jobs are provided through that initiative.

This Bill will affect the rights of some Aboriginal people around the State, in that they will not be able to retrigger the right to negotiate process on a miscellaneous licence every five years. It is not unreasonable to withdraw that right from Aboriginal people. They will retain that right on the first renewal of a lease, and they can take into account the fact that the arrangements will have changed, particularly for existing leases, and they will be able to formulate their negotiations with that in mind. It would be untenable to retain the right to negotiate every five years on a 400 kilometre railway line. Anyone who tried to prosecute that argument would not be very sensible.

This Bill is fair to all and will certainly benefit the entire State. I hope that through the provision of jobs and the right to negotiate process the legislation will benefit Aboriginal people. The Opposition supports the Bill.

HON GIZ WATSON (North Metropolitan) [2.05 pm]: I have examined the Mining Amendment Bill on behalf of the Greens (WA). Hon Mark Nevill mentioned native title, which is an issue that we have considered closely. I have been reassured that people involved in native title matters are satisfied that this is a reasonable Bill. Therefore, we do not wish to raise any objections to it on native title grounds. However, I wish to raise an issue associated with the Bill, and to seek some assurance from the Minister for Mines. I refer here to multiple routes pertaining to mining companies.

Because the Bill has been introduced at this time largely to address the West Angelas project, it is appropriate to raise concerns about the proposed railway route, particularly as it cuts through the Millstream-Chichester National Park. I realise this matter is slightly outside the intent of the Bill -

Hon N.F. Moore: It is well outside the Bill. It has nothing to do with it.

Hon GIZ WATSON: Perhaps it is unreasonable to raise this matter, but the Bill was proposed in the context of that project. Therefore, I beg the indulgence of members for five minutes to mention -

Hon Mark Nevill: Just this once!

Hon GIZ WATSON: - the possibility of multiple routes through the national park. Apart from being economically ill-advised, it would also have a major impact on the park by creating additional barriers both for the movement of wildlife and, more importantly, the movement of water, because service corridors - whether pipelines, railways, roads or road corridors - have an enormous impact on the surrounding environment.

I guess all I seek here is some commitment from the Government to do all it can to ensure that companies are encouraged to share access routes, particularly through important conservation reserves, and to ensure that our conservation systems do not become criss-crossed with multiple rail routes, pipelines or powerlines, because that would have an enormous impact on the integrity of the reserves and their viability over the long term. I support the Bill.

HON HELEN HODGSON (North Metropolitan) [2.08 pm]: I also have had an opportunity to consider the Bill over the past couple of days. I am a little concerned that in view of the time line, we have not had a lot of time to consult. However, I have been able to talk to key people in the areas affected and have formed my judgment based on the advice I have received in those respects. We recognise the time sensitiveness for the West Angelas project. We must be realistic about the purpose of the Bill: Although it is to extend the time line on leases, the real reason is native title. It is ironic that we discuss this matter in this place today, given the events unfolding on other side of the country with regard to native title.

Currently, miscellaneous leases trigger the right to negotiate each time they are renewed. The renewal period is every five years. Under the framework of the Native Title Act, where the use and original purpose of the land is unchanged, in many instances no new right to negotiate is triggered.

It is worth bringing to the attention of this place some comments that were made when the original Native Title Bill was passed by the Senate in 1993. My former colleague Senator Sid Spindler, who was the Democrat Senator for Victoria in 1993, moved an amendment to allow the extension of a lease without triggering the right to negotiate process when the terms and conditions were exactly the same as applied previously. He said at that time that

according to our legal advice, the removal of the provisions of the Government's amendment made it impossible legally to grant the new lease; and it was, therefore, thought imperative to rectify this situation. He said that the Democrat's amendment had been arrived at to cure that possible danger, and that the amendment included in the "permissible future act" the renewals, re-grants and extensions of commercial, agricultural, pastoral or residential leases, provided the granting of the lease did not create a proprietary interest when previously the interest had been a non-proprietary one, and provided that it did not create a larger proprietary interest than was previously created by the lease. He said also that, in addition, the amendment would ensure that where the lease contained a reservation or condition for the benefit of Aborigines or Torres Strait Islanders, the renewed, re-granted or extended lease contained the same reservation or condition. Therefore, at that time we were well aware of the issues that are involved in allowing a right to negotiate on a lease that has been granted on essentially the same terms and conditions as existed previously.

I was interested to see why that section and that amendment are limited to commercial, agricultural, pastoral or residential leases and do not include mining leases. Essentially, the reason is the level of impact that the activity will have on the lease in question. Miscellaneous licences are classified as mining leases for the purposes of the Native Title Act regime. Therefore, the issue is the impact of mining on the environment as opposed to the impact of commercial, agricultural, pastoral and residential purposes.

The Mining Regulations 1981 state that the purposes for which a miscellaneous licence can be granted are a road, a tramway, an aerial ropeway, a pipeline, a powerline, a conveyor system, a tunnel, a bridge, the taking of water, a search for ground water, hydraulic reclamation and the transport of tailings, an aerodrome, a meteorological station, a sulphur dioxide monitoring station, or any other purpose which the Director General of Mines may approve. Although these purposes are definitely ancillary to mining activities, they are not on the same scale as mining. Therefore, mining is not permitted under the grant of a miscellaneous licence, and a mining tenement and the appropriate mining leases need to be obtained.

Therefore, the principle of not allowing the right to negotiate process to be triggered if the lease is renewed on the same terms and conditions is consistent with the position that we have taken in the past and is consistent with the framework of the Native Title Act. I note also that the National Indigenous Working Group has said that it is happy for the current exemption in the right to negotiate provisions to continue. Given that the uses that I have mentioned will not normally be high impact, as referred to in the native title legislation, we believe that the right to negotiate should not be triggered when the renewal of a licence is on substantially the same terms and conditions as applied previously.

Hon Mark Nevill: A railway would have a pretty high impact.

Hon HELEN HODGSON: It is not classified as low impact under the definition of "low impact" in the Native Title Act but neither would it be classified as high impact. According to the people who have advised me on this matter, the level of impact can be categorised as low, medium or high, and structures that are built on the surface of the land are not normally classified as high impact activities. A tunnel may be a high impact activity.

We should not fool ourselves. What we are doing is granting a licence for 42 years rather than for 21 years, because, upon application, the Minister shall renew that licence. Therefore, essentially, we are saying that the right to negotiate will be removed for 42 years. That concerns me a little. I am comfortable with 21 years, but 42 years is getting a bit lengthy. I am aware that different types of leases have different lengths, including up to 99 years. Basically, what we are doing is setting a framework in which the right to negotiate will operate, and it will be up to the Aboriginal negotiators, when they engage in discussions with the mining companies, to take into account the conditions of that framework and the activities that can take place.

I have glossed over the fact that a miscellaneous licence can be used for a number of purposes. It is my understanding that the licence does need to specify the purposes that are involved. For that reason, the Aboriginal negotiators will be in a position to know whether they are dealing with a railway line or a road. It is my understanding also that if a further purpose were required, a new licence would need to be issued. For example, if the holders of a licence wanted to build a meteorological station in an area in which they had approval to build a railway line, they would need to apply for a new licence, and that would trigger the right to negotiate process. That is fair and reasonable, because the Aboriginal negotiators need to know which of their rights are likely to be impaired by the issue of a licence, and they are entitled to take that into account in their negotiations.

Therefore, although I am not very comfortable about limiting rights in this way, and I am concerned that it will be effectively for 42 years, I support the Bill because I believe it is within the framework of the existing legislation and something with which both sides to the negotiations will be able to work.

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [2.18 pm]: I thank members for their support of

the Mining Amendment Bill. I acknowledge that this Bill has been put to the House in somewhat of a hurry. I appreciate the way in which members of all parties have been prepared to consider this issue and reach the conclusion that this Bill must be passed with a degree of urgency.

The Government is examining the Mining Act in some detail to see whether amendments can be made to it which will expedite the native title processes and enable people to receive title for mining purposes much more quickly than is currently the case. Many problems are associated with native title in respect of the mining industry. Many problems are associated with native title in respect of other things also, I might add, having just visited Karratha. It does not make a lot of sense to me that a town in the north west of Western Australia is running out of land. Australia has plenty of land. However, getting hold of it is another matter.

I thank members for their support of this Bill. It is intended to increase the length of a new miscellaneous licence to 21 years, with a right of renewal to 42 years. Hon Helen Hodgson has some reservations about 42 years. If I were incurring the cost of building a railway line, I would consider a minimum period of 42 years fair and reasonable, bearing in mind that the purpose of this Bill is to prevent the need for the right to negotiate process to come into effect each time a person wants to renew a licence. The processes of native title at present are such that some severe arm twisting is taking place and some mining companies are expending large sums of money. If Aboriginal people were given the right every five years to go through the right to negotiate process in respect of miscellaneous licences, that would be tantamount to telling mining companies that a risk is attached to the expenditure of that money.

On this occasion, Robe River Iron Associates is having second thoughts about going through the processes of developing the West Angelas deposit and building the necessary railway line, unless it gets some relief with regard to native title. I do not have any problem with the 42 year term, bearing in mind, as Hon Helen Hodgson said, that the right to negotiate process is triggered once the application is made for a miscellaneous licence. Every opportunity will be available to Aboriginal people at that point to seek to obtain the compensation to which they believe they are entitled. Similarly, the native title process will apply to existing five-year miscellaneous licences at the time of their renewal.

The issue of whether the purpose for which the licence has been issued might change is also important. If the purpose for which the licence has been allocated is changed, the licensee would be in breach of the terms of the licence, and it could be forfeited. Therefore, anyone applying for a licence over that land must go through the process.

Hon Helen Hodgson: That is, unless they applied for a new licence over the same land.

Hon N.F. MOORE: They could apply for a new licence over the same land. However, the conditions would be different and that would retrigger the native title process. I do not necessarily agree with that.

Hon Giz Watson raised questions that are coincidental to this Bill, and relate to the route of the railway line. That has nothing to do with the Bill other than we are talking about a line that goes through the Millstream-Chichester National Park. The location of the route must go through the normal environmental processes before any decision is made to allocate land for that purpose. Decisions are in the process of being made, but routes that are no longer in contention are Mt Leal, George River and Mt Herbert. Those routes were not considered appropriate. Essentially, the Robe River line will run parallel to the existing Hamersley line, apart from one small area which joins up with the existing Robe line to Pannawonica. The environmental aspects of this issue will undergo processes other than this. This issue has been the catalyst to this Bill. However, this Bill has nothing to do with any environmental issues that might arise by virtue of the construction of the railway line.

I thank members most sincerely for giving the time that was necessary to progress this Bill quickly. I will not, as a matter of course, impose upon members in this way in the future if it can be at all helped. However, it is a big project. It is important to Western Australia that projects of this nature proceed. I agree with Hon Mark Nevill that as a matter of fundamental principle having to renegotiate every five years on miscellaneous licences with native title claimants is unfair, excessive and counterproductive to encourage people to invest money of the magnitude we are talking about in this case within the mining industry. I thank members for their support and commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon N.F. Moore (Minister for Mines) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Sections 91A and 91B inserted -

Hon MARK NEVILL: Who would be liable for native title negotiations on licences that are renewed or transferred? Would it be the original applicant or the holder of the transferred licence?

Hon N.F. Moore: The people who renew the licence.

Hon MARK NEVILL: Is that correct, or would liability remain with the primary applicant?

Hon N.F. MOORE: If the original licence holder is simply renewing the licence, he or she would be responsible in the native title right to negotiate process. However, if the licence is transferred to a new owner, I am advised that the new applicant would be subject to the process of native title negotiations.

Hon Mark Nevill: Would he also be liable to pay the compensation?

Hon N.F. MOORE: Yes.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read and third time, on motion by Hon N.F. Moore (Minister for Mines), and passed.

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS - PROPOSED STAMP DUTY ON CHATTELS

Motion

HON HELEN HODGSON (North Metropolitan) [2.30 pm]: I move -

> That the House direct the Standing Committee on Estimates and Financial Operations to inquire into and report on -
>
> (a) the economic impact on the mining industry of the inclusion of chattels conveyed with land in the calculation of stamp duty; and
>
> (b) the economic impact on the agricultural industries of the exclusion of chattels conveyed with land in the calculation of stamp duty.

This motion arose out of debate on the Revenue Laws Amendment (Assessment) Bill in this place about two weeks ago. Prior to our deliberating on the Bill I was approached by representatives of the mining industry who were very concerned about the impact of one part of that Bill on their industry; that is, the part that ensured chattels would be taken into account for the calculation of stamp duty, whereas previously they had not been included as part of the land. I discussed the merits of that issue at some length in the second reading debate, so I do not intend to canvass that ground again.

Basically I was asked to look at this issue on two grounds: First, the inequity in treatment between different primary industry sectors, specifically the agricultural sector, which is being exempted from this move, and the mining sector, which is being included; and, secondly, the impact it might have on land rich companies and trusts. When we went through the debate and the interpretation of those provisions, it was clear it would not have an impact on the land rich provisions, but would still leave the core issue of the inequity in treatment between different sectors in the primary industry base in this State.

It is appropriate that the matter be looked at properly. At that time, it was suggested that the matter could be dealt with by the Standing Committee on Estimates and Financial Operations, but I felt the mechanism suggested to deal with the issue was problematic because the whole Bill could not proceed prior to its return from the committee. If the committee report came back within the eight days allowed, it would have left only about two days of the financial year within which to proceed with proclamation and ensure taxpayers were aware of their obligations. It would not have affected only the stamp duty. Although only that part of the Bill was to be referred to the committee, the Bill was being debated as a whole and this would have delayed its implementation. I did not feel that was appropriate at that time. Given that the committee had only eight days within which to inquire into an issue with this much detail, I felt we would be unlikely to get a useful outcome from the committee report. Consideration of the complex

financial issues relating to both the mining industry and the agricultural industry was required to address the question of equity between these sectors. I felt it was better to ensure the referral occurred in a way that allowed the committee to have a thorough look at the issue, without the imposition of a time constraint - that is, a limitation of eight days - within which to report back. The issue must be addressed.

I note last week in the other place the Premier made a commitment to the member for Eyre that the matter would be reviewed within a year so the impact could be assessed. That is quite complementary to the suggestion of an inquiry by a committee of this place. We will have an assessment of the impact which can then be factored into the Premier's decision making process when he determines whether anything must be done to redress the situation. There is some merit in ensuring the matter is reviewed properly and the best way to do that is to refer it to the committee as an inquiry, rather than as a Bill. I commend the notion.

HON MARK NEVILL (Mining and Pastoral) [2.34 pm]: I am opposed to this reference to the Standing Committee on Estimates and Financial Operations. Unfortunately I was absent on parliamentary business during the week this Bill was discussed. Prior to that, I spoke at length with Hon Tom Stephens about the Bill, how is could be amended and what we could, or could not, do with it. I suggested that the definition of "land" could be deleted. That would have put the onus on the Government to treat chattels on agricultural land the same as those on mining land, a fairly simple process. Another suggestion was to refer the Bill to the standing committee and on the following Friday we could talk to people from the State Revenue Department, the Association of Mining and Exploration Companies, the Chamber of Mines and, possibly, representatives from one or two mining companies that AMEC and the Chamber of Mines could suggest had recent transactions in this area. That would have given a clear indication of, firstly, the effect and, secondly, the amount of money to be raised under this Bill. Within that day's sitting the Bill could have come back to the House to be debated prior to the end of this session and, more importantly, the end of the financial year.

The question of equity is fairly simple and straightforward. The mining industry should not be treated any differently from the agricultural industries; it should not be paying stamp duty on chattels on mining tenements. I repeat: The question of equity is straightforward. We do not need an inquiry to see the bias or the injustice in that. The only question is about the quantum. From memory, the Government said that it would raise $10m in extra stamp duty; if I am correct -

Hon N.F. Moore: Not from the mining industry, but overall it is about $12m on chattels.

Hon MARK NEVILL: Our view is that it would be much more money than that. Hon Tom Stephens gave the example of the sale of a small mine valued at $15m. Previously it attracted stamp duty of about $400 000. Under the proposed new regime it will attract stamp duty of about $750 000, quite a significant jump in stamp tax. During the debate, if not the Minister, a member said that that was not a significant amount of money. It is. If that goldmine is like most other mines in the State, it has $12m worth of debt on it. When we deduct that debt of $12m from the sale price of $15m and the Government takes $700 000 in stamp duty from the remaining $3m compared with $400 000 previously and that is a lot of money. That is the impact of this stamp duty. It is a new tax. Quite clearly it is equitable in the way it is being brought in. The Government has an eye on its constituency. There is a clear moral position for members in this House to have voted against that inequitable situation.

That could have been done by deleting the definition of "land" as it could have forced the Government to withdraw that provision as it would have taxed chattels in the agriculture industry. Otherwise, the matter could have been referred to the standing committee to outline to the Government the real picture of inequities created through this change to the mining industry, and the committee could have formed an idea of the quantum of tax to be raised. The committee could have, first, received evidence from the State Revenue Department and, second, looked at the sales of mining industry tenements over the previous year.

However, I see no real purpose in referring this matter to the committee now. The horse has bolted, and the damage has been done to the mining industry. This is another tax which the industry cannot really afford. Mining exploration is dropping off, which is no surprise to me as that trend existed before the introduction of the gold tax. This is another tax in the form of stamp duty which will impact upon this industry. The amount raised will be much more than the $10m predicted - it will possibly be $20m or $25m.

Hon N.F. Moore: The estimate is $3m for the mining industry, and $12 million for all chattels.

Hon MARK NEVILL: The $3m is ridiculously wrong. I hope that my prediction is not right.

Hon N.F. Moore: It is Treasury's estimate.

Hon MARK NEVILL: We will see one year after it is introduced. The Treasurer gave a commitment to Hon Julian Grill that if the impost is grossly more than the amount anticipated, the Government will address that issue. If the

standing committee produced a report now, it would be ignored by everybody. I discussed with my colleagues the best timing for an inquiry of this type, and we concluded that it should be held in about one year. Frankly, that would be a year closer to an election, and Governments are far better listeners near an election campaign. We are two years out -

Hon N.F. Moore: Two and a half years at least - it may be three years.

Hon MARK NEVILL: The Government will not take much note of any report released by the committee on this tax. The whole process would be irrelevant. If the Australian Democrats wanted to support the mining industry, they could and should have done so last week. However, they chose to support the application of stamp duty on mining industry chattels. This reference to the Standing Committee on Estimates and Financial Operations will not get the Democrats off the hook. This motion appears to be a rearguard action to restore their credibility with the mining industry. However, people in the industry appreciate what the Government has done with stamp duty with the support of the Australian Democrats. It is the fifth significant increase in federal and state taxes with which the mining industry has had to cope over the last two years. This industry is not as robust as perhaps some people imagine it to be. One need only look at the balance sheet of a company like BHP to see how things in this industry can go bad very quickly, despite best intentions and paying high salaries to executives to run these companies.

Releasing a report to this House in the time required represents no problem. However, the Standing Committee on Estimates and Financial Operations is a very busy committee. It has more work on its agenda than it can comfortably cope with, and it has a part time research officer and shares a secretary with three other committees. The committee would love to undertake a number of other inquiries, but it is physically impossible to do so. I see no point in lumbering our committee with an inquiry which will be ignored. This inquiry will be undertaken through the Treasurer's assessment of the situation following the effluxion of one year from the implementation of stamp duty on mining chattels. As I discussed with my colleagues, that would be the appropriate time at which to conduct an inquiry into this matter. We will then have the hard facts on which to make an assessment to produce a report. At present, that assessment will be conjecture and estimates to a large degree. I see no point in lumbering our committee with this Australian Democrats' motion, which in its nakedness is nothing more than a face-saving exercise. I oppose the reference.

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [2.46 pm]: I am a little surprised by Hon Mark Nevill's comments on this matter. I thought he would be the first person to put up his hand for such an inquiry into equity and whether one industry is advantaged vis-a-vis another. I thought the member would relish an inquiry of that nature. As Minister for Mines, if the motion is passed, I look forward to seeing the results of the committee's deliberations. I can give an absolute assurance to Hon Mark Nevill that I, at least, will take absolute notice of the committee's findings.

Hon Tom Stephens: It is not good enough. You could make a commitment on behalf of the Treasurer -

Hon N.F. MOORE: Frankly, I do not care what the Leader of the Opposition thinks. I say to Hon Mark Nevill, and ignoring the Leader of the Opposition, that I will take notice of the report, as notice is taken of all reports. I give a special assurance from my point of view: I will take notice of a report on this matter.

Hon Mark Nevill: Concerning paragraph (b) of the motion, how do you determine the "economic impact on the agricultural industries of the exclusion of chattels conveyed with land in the calculation of stamp duty" if no stamp duty is applied? How can there be an economic impact? It does not make sense.

Hon N.F. MOORE: I guess when the committee considers the terms of reference, in the event that the House agrees to the motion, it will see the impact on the agriculture industry for a similar level of stamp duty on chattels as applied to the mining industry.

Hon Mark Nevill: It is not what the motion says.

Hon N.F. MOORE: Maybe the words can be changed, but that is for the member to decide. The idea of the motion is, firstly, to determine equity between two industries, and I am keen to see the results; and, secondly, to determine how much the stamp duty will raise. Treasury has indicated that its best guess - remembering that it has not been in place before - is about $3m a year from the mining industry. My support for this measure is largely based on the fact that such dollars are anticipated. If the figure is significantly more, I have no doubt that the Treasurer and the Minister for Mines will take further action.

Hon Tom Stephens: You do not believe that, surely!

Hon N.F. MOORE: As has already been indicated, the Treasurer, in response to a question asked by the member for Eyre, has agreed to review the decision to apply stamp duty to chattels in the mining industry after the first year. The committee could assist in that review. Obviously, the people on the Standing Committee on Estimates and

Financial Operations are capable of considering the issue raised in Hon Helen Hodgson's motion and making some helpful decisions for the Government. If Hon Mark Nevill does not think the committee's decision would be helpful to the Government, maybe we should get rid of the committee, full stop.

I was amazed by some of Hon Mark Nevill's comments regarding taxes applied to the mining industry. History indicates that previous Governments imposed enormous imposts on the mining industry -

Hon Mark Nevill: Tell us about the gold tax?

Hon N.F. MOORE: I will tell the member about it. Just back into the days of Hawke, Keating and-

Hon Ljiljanna Ravlich: What a surprise!

Hon N.F. MOORE: That is all we need to, because that is where the most significant impacts occurred in the mining industry. Firstly, I refer to the gold tax which Hon Mark Nevill marched against in the streets. His colleagues in Canberra brought in the gold tax on profits in the mining industry which had not applied before. He said it would be introduced over his dead body, yet his Government, the national Labor Government, brought it in.

The most significant impact on the mining industry across the board is the fringe benefits tax. This has impacted on the capacity of the mining industry to create new towns and employment in country regions. Everybody has argued against that tax ad nauseam, including Hon Mark Nevill and me. I am just as disappointed as is Hon Mark Nevill in his federal colleagues who brought it in the first place. It was introduced by the Labor Party.

Hon Mark Nevill: Tell us about the diesel fuel rebate.

Hon N.F. MOORE: That has not been changed and the member knows that. He knows that any ambitions with regard to that have been very severely squashed, which is how it should have been.

Hon Mark Nevill interjected.

Hon N.F. MOORE: Let us look at who has imposed taxes on the mining industry. The capital gains tax, which was introduced by the federal Labor Party, applies to everybody across the board. The federal Labor Party also introduced the fringe benefits tax. Everything that could be taxed, with one or two exceptions, is now taxed as a result of the Hawke-Keating Labor Government. That is where it all came from.

Hon Mark Nevill interjected.

Hon N.F. MOORE: This Government introduced a gold royalty in Western Australia. That is about it, except for this decision to tax mining industry chattels, which I understand applies in every other State of Australia anyway, contrary to the views of the member for Eyre. I am happy to indicate to the House that the Government will take very serious notice of this report. It will not be ignored. The question of equity needs to be assessed very carefully. If one industry were given an advantage over another in ways which were not fair, that would need to be addressed. I read the Treasurer's response to a question asked by Hon Julian Grill. The member opened himself to argument on this matter. He asked -

> Is the Government prepared to review this element of the legislation after, say, one year's impost of this tax?

The Treasurer replied -

> The Government is prepared to do that. I listened to the arguments put forward last week and I appreciate the concerns raised. The Opposition is quite right. In the next couple of years the mining sector will go through a difficult period. . . . I give a commitment that the Government will reassess this tax in a year's time.

That is a commitment by the Premier and Treasurer in Parliament and it will happen. In the event that it has an adverse impact, I am sure he will take that seriously into account.

It would be helpful in the context of this debate to get some comparison between the two industries referred to in the motion. Some industries get support at various times and others do not for good reasons. However, on the issue of equity, I think the member's deliberations will be very helpful in framing decisions in the next Budget. It is a better way of doing it than simply referring the legislation to the committee when the Bill is before the House, because that could have the effect of delaying the legislation, which is essentially a money Bill. It is more appropriate to look at this in the broader context of equity, as Hon Helen Hodgson seeks to do. The Government supports the motion and it looks forward with some enthusiasm to the results of the inquiry.

HON HELEN HODGSON (North Metropolitan) [2.53 pm]: I thank the Leader of the Government for his support. I am sorry to hear that the Opposition does not support the motion, because the motion implements the intention of

its original move on the floor of this Chamber the other day. With reference to the one substantive issue Hon Mark Nevill raised, which was the wording of the motion, my definition of "impact" is that it can be either a beneficial or a negative impact. Therefore, the impact of an exemption is just as relevant and measurable as the impact of an inclusion. For that reason, it is perfectly possible for the committee to look at that issue and to determine whether it has had an economic impact on the agricultural industry.

I was also surprised to hear Hon Mark Nevill say it would be no problem to call in half a dozen people and provide a report to the House in eight days. Yet in the very same sentence, he argued that too many matters are before his committee at the moment for him to be able to give any priority to this at all.

Hon Mark Nevill: We could devote a whole day to it.

Hon HELEN HODGSON: That argument is rather fallacious, and the best way to get a real outcome from this inquiry is to do it properly. That it is best done by a referral.

Hon Mark Nevill: It is just a face-saving exercise for the Democrats.

The PRESIDENT: Order!

Question put and passed.

METROPOLITAN REGION SCHEME (FREMANTLE CONTROLLED ACCESS HIGHWAYS) BILL

Introduction and First Reading

Bill introduced, on motion by Hon John Cowdell, and read a first time.

Second Reading

HON J.A. COWDELL (South West) [2.56 pm]: I move -

That the Bill be now read a second time.

This Bill seeks to repeal the existing provisions for an ill conceived and unpopular highway system which is threatening communities and important conservation reserves from Cockburn to Fremantle. The controlled access highways which are the focus of this Bill include the Fremantle eastern bypass and the Fremantle to Rockingham Highway, which are linked together by the Cockburn Road realignment. Although the Cockburn Road realignment has yet to be defined as a highway, the proponents of the Jervoise Bay marine infrastructure development made it quite clear that the upgrading of Cockburn Road to a four lane dual carriageway is considered fundamental to the success of the development.

People no longer see highways as the solution to all planning and transport concerns. Perth is already one of the most car dependent cities in the world. Studies on Perth's haze and photochemical smog have shown conclusively that vehicle emissions are the major contributor to our deteriorating air quality and that this loss of air quality has a direct effect on people's health. Combined with the results of numerous international studies that show the consequence of building more roads is to encourage greater car dependency, this highway will further contribute to our declining air quality with associated health impacts for affected residents. The people of Fremantle and Cockburn have indicated, clearly and repeatedly, that the future of planning is to give priority to cohesive, sustainable communities rather than cars.

In raising the issue of greater car dependency and associated loss of air quality which accompanies this highway proposal, we are inevitably drawn to view the highway in totality and to examine the cumulative impacts of this unnecessary roadway. In this regard, the Fremantle eastern bypass cannot be assessed in isolation, as vehicle emissions are not constrained by local government boundaries and one section of road inevitably leads to another. There is growing demand from the community for these highway proposals to be assessed on the basis of their cumulative impacts, rather than the present inadequate piecemeal approach of assessing separate portions.

The proposed Fremantle eastern bypass, to which I will return shortly, leads inexorably to the proposed Cockburn Road realignment, then the Fremantle to Rockingham controlled access highway and the destruction of a significant portion of the Brownman Swamp reserve. The bulldozing of this highway through the valuable System 6 area M92 will cut off Mt Brown from the swamps and pass close to Lake Coogee with serious environmental and aesthetic impacts. The scientific importance of this area has been documented in the System 6 Red Book 1983 and the Semeniuk report of 1997.

The Australian Heritage Commission's 1997 report on the Beeliar Regional Park describes the Beeliar wetlands as one of the most important systems of lakes and wetlands of conservation significance remaining in the Perth metropolitan area. This environmental vandalism cannot go on unchallenged and the people of Cockburn have made

it abundantly clear that they will not accept the destruction of any of the Brownman Swamps reserve which is an integral part of the Beeliar Regional Park.

Indicative of the level of local opposition to the existing highway route is the position of the City of Cockburn, which is also opposed to the retention of the controlled access highway reserve through the Beeliar Regional Park. In assessing the cumulative impacts of the Fremantle eastern bypass, the Cockburn Road realignment and the Fremantle to Rockingham controlled access highway, and viewing this as a single highway system, we also see that there is an existing single alternative.

Some years ago a major north-south highway route was built a few kilometres to the east of Fremantle along what is now known as Stock Road. This route is presently underutilised and, under the present circumstances, will remain so for the foreseeable future. In reviewing the major transport needs for Fremantle, two issues require consideration. First, there is the provision of access to the port and to ensure that transport is not an impediment to the retention of the port in the inner harbour area of Fremantle. The second is to provide general north-south access. The existing Fremantle eastern bypass in the form of Stock Road and Leach Highway is well placed to carry the traffic to the port as well as to provide the required north-south access. Currently traffic can travel south along Stirling Highway, over the Fremantle traffic bridge, left at Leach Highway and then right at Stock Road. There is already a highway network to the east of Fremantle which is more than capable of fulfilling Fremantle's major traffic requirements. This existing road network makes the Cockburn Road realignment and the Fremantle to Rockingham controlled access highway redundant.

The pressure for the proposed bypass in terms of the Fremantle community has come from people who live on Hampton Road and who are currently subject to the noise and associated problems of excessive traffic, particularly heavy trucks, that use this route. However, the Fremantle Port access and traffic calming study referred to earlier has proposed ways in which the problems confronting Hampton Road residents can be addressed, without wasting millions of dollars and disrupting whole communities in the process. By implementing a series of control measures such as lights, pedestrian crossings and reduced speed devices, trucks and other through traffic will be discouraged from using this route. At the same time the Minister should be encouraging heavy trucks and north-south traffic to use the existing highway routes around Fremantle.

Additionally, the use of a designated truck route such as the existing Fremantle eastern bypass of Stock Road and Leach Highway for those vehicles needing to access the north wharf would also alleviate the very serious concerns of people living on Hampton Road. There is no reason to support the continued use of a major residential road by heavily loaded trucks when a perfectly tailored alternative exists.

The proposed bypass will take the port related traffic and the north-south traffic through the heart of the residential suburbs of Whitegum Valley and Beaconsfield. These two closely linked communities will be carved apart by the highway and its associated environmental impacts. In addition, this physical barrier will create an unfortunate divide between those who can afford to live on the ocean side of the highway and those who cannot. This will represent not only a division of these neighbourhoods but also a tearing apart of a united and cohesive fabric of the broader Fremantle community. In addition to these concerns, the local community is also opposed to the loss of significant local bushland and landscape values as a result of this highway slicing through Clontarf Hill with a road reserve of up to 100 metres. Remnant bushland in this southern area of Fremantle is already scarce and further losses will be disproportionately felt.

The proposed highway system does not offer any win-win solutions, only a transference of problems at great cost and devastation from one residential area to another and the loss of significant conservation areas. Tragically, this expensive upheaval could go ahead while a perfectly suitable route, which was built many years ago to handle port related traffic, remains underutilised.

Clause 5 of this Bill repeals the Metropolitan Region Scheme (Fremantle) Act 1994. This was introduced by the coalition Government against the advice of previous transport studies and despite opposition from the local community. This clause will bring an end to the Fremantle eastern bypass south of High Street as indicated by the stippled area on the map in the schedule to the Bill. Clause 5 removes the controlled access highway reservation currently in place on the sites below the end of the Fremantle eastern bypass stippled on the map. I commend the Bill to the House.

Debate adjourned, on motion by Hon Muriel Patterson.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [3.06 pm]: I move -

That the Bill be now read a second time.

The Commercial Tenancy (Retail Shops) Agreements Act regulates lease agreements for certain small businesses conducting their operations in retail premises of 1 000 square metres or less. The Act provides for the determination of questions arising from all matters associated with the lease and dealings between the tenant and landlord. Its main aim is to improve the parties' understanding of their rights and responsibilities involved when entering a retail leasing contract. It also provides relatively inexpensive and practical procedures for resolving conflicts about these matters.

In completing a statutory review of the Act, the Government is proposing amendments that represent outcomes from an extensive consultation process. A Green Bill was issued to give all stakeholders from the retail sector and property industry the opportunity to consider a range of proposals. These proposals did not represent the settled position of the Government. They were understood to represent a set of reforms accumulated from previous reviews and desired by the industry to enhance the purpose of the Act.

Following a formal public submission period of five months, discussions have continued with peak industry groups and interested individuals to clarify the impact of a wide range of proposals. The amendment Bill is an amalgam of a number of these proposals, including refinements, additions to and deletions from the original Green Bill, together with a change accepted by the Government in the lower House.

The amendment Bill upholds a number of parameters. First, in regulating the activities of parties involved in commercial retail leases, the new measures do not intend to apply overly prescriptive procedures in these transactions. However, the review has identified that, due to a changing environment, some finetuning of the Act is required. Secondly, the Bill's initiatives are directed largely to new leases only, with no retrospective application to current leases. The amendment Bill also contains improvements in drafting aimed at overcoming difficulties that have been experienced in the interpretation and administration of the Act. In addition, the amendments reflect changes to the retail industry environment since the Act commenced in 1985 and the most recent 1990 amendments were introduced. The proposed amendments also deliver on the Government's stated commitment to provide a more secure environment for traders, encourage landlords to make agreements which suit the dynamics of the individual properties concerned and the specific retail businesses that are being accommodated, and place a greater emphasis on the education of prospective lessees and the disclosure of all conditions, rights and obligations of parties to the retail shop lease.

The main elements in the amendment Bill deal with reviews of a tenant's rent, valid occupancy cost contributions, and the disclosure of all pertinent information prior to the lease contract and protective audit provisions. Specifically, these deal with interpretations of major terms underpinning the amendments. These include refinements to "retail shop lease" and "shopping centre" to allow for associated open space used for retail purposes and includes multilevel and strata developments. The term "total lettable area" is defined as the aggregate of the retail floor areas, the latter term being added to uniquely identify leased space subject to the Bill. When combined, both terms determine the relevant proportion for cost apportionment to the retail tenant.

A tenant guide will be introduced for enhanced disclosure and tenant education. The tenant guide will address a range of rights and obligations for landlords and tenants. Essentially the guide will be a plain language explanation of key principles contained within the amended Act. In particular, it will include details of tenants' rights in respect of void clauses such as the insertion of prescriptive trading hours arrangements in leases. The tenant guide will also recognise the practice of some clauses, which do not apply to leases covered by the Act, being used as a means of misleading tenants with regard to their rights. The guide will recognise the legal realities and resulting difficulties if these provisions were to be prohibited outright. The guide will be developed in conjunction with an industry reference group and be prescribed in regulations to support the amended Act. Sanctions will be imposed if this guide is not provided.

The Government believes that it is unfair for assignors to be required to guarantee the performance of the ingoing assignee over the balance of the lease term. Accordingly, the amendments aim to remove any doubt that once an assignment of a retail shop lease under the jurisdiction of this Act has occurred, the liability of the assignor tenant or his or her guarantor will end in respect of the new business occupancy. Any moneys owed by the outgoing tenant will be his or her responsibility.

The Bill ensures that only one means of calculating rent per review will be specified in a lease. When calculating rent due at a rent review, some leases feature more than one method of calculating rent, such as being the greater of the consumer price index market rent, or 10 per cent. Further provisions also allow rent only to increase, even when market conditions at the time of the review should see a decrease in the rent. The amendments will require that for

new leases, prior to agreements being finalised, the single basis on which rent reviews will be conducted must be clearly disclosed. The amendments also confirm the Government's contention that for new lease agreements, the market rent will be able to increase and decrease to reflect market conditions prevailing at the time of the review.

The Bill also clarifies beyond doubt that "ratchet clauses" which ensure that rents can only increase on review are prohibited. In the assessment of what constitutes market rent, the valuer will be required to adopt proper land valuation practices. These standards are currently being developed by the valuation industry and will be referred to in the regulations supporting the Act. The Government has also agreed to make void any lease provision that prevents a lessee from choosing to disclose rental information to third parties such as valuers.

The Bill provides that either party to the retail lease may initiate a rent review action. In the absence of specific timing on this issue there is a default timetable to initiate the review not earlier than three months prior to or not later than six months after the scheduled review date. This will work to protect the tenant's rights to take advantage of market conditions rather than for only the landlord to have this ability. For all leases, in cases of dispute, the existing rent will continue until the new rent is determined. When the new rent level is decided, any adjustment in favour of the landlord or tenant will rank equally with all other lease commitments and be due and payable with the next invoice.

The registrar's powers to determine rent reviews are also confirmed by the Bill together with the ability of the registrar to call for mandatory disclosure of valuation evidence from the parties. These provisions will apply to all leases. With regard to contributions to landlord expenses, the Bill requires that a retail lease seeking the recovery of operating expenses from retail tenants will specify how the amount claimed has been calculated, apportioned and is to be paid by the tenants. This clause will include retail premises whether as stand alone shops, strata developments, or shopping centres comprising one or more buildings or a cluster of five or more retail shops.

The relevant proportion principle is introduced by the Bill to set an upper limit to the amount tenants can reasonably be asked to contribute to the landlord's operating expenses in running a shopping centre. Some industry practices have seen major tenants being given significant discounts by landlords on a shopping centre's operating expenses. In order to overcome any shortfall from these negotiations, in some instances landlords have then allocated these shortfalls to other tenants, generally the smaller specialty retailers, in the centre. In addition, some shopping centre ownerships with vacant shops have loaded up their tenants with the expenses which should have been allocated to the vacant shops. Practices of this nature are patently unfair. As these costs are unrecoverable, the landlord, in the absence of tenants in these vacant shops, should bear these costs.

The proposed amendments therefore limit a tenant's contribution to all valid operating expenses such as rates and taxes, insurances, cleaning and the like by relating the amounts they contribute to the proportion which the floor area of the tenant's shop bears to the shopping centre's total lettable area. The clear intention is to ensure that small tenants do not contribute to expenses that are not applicable to their tenancy. The Government is not, however, precluding any negotiated agreement between the parties that provides for a contribution by the tenant of less than the relevant proportion.

With regard to disclosure and audit requirements for a shopping centre's operating expenses, the Bill's provisions have been expanded to allow greater scrutiny of the landlord's charges. These changes have been endorsed by the Joint Legislation Review Committee of the peak audit industry group and are aligned with similar provisions in other States.

These provisions also ensure that parties pay only their fair share by specifying that tenant contributions to landlord expenses will be limited to the tenant's proportion of the total lettable area of the shopping centre. To complement this disclosure between the parties to a lease, the Act will also require that the centre's total lettable area, and any changes in the year, be verified by a registered company auditor during the conduct of the audit.

In recognition that both landlords and tenants will benefit from these audited provisions, the auditing costs will be equally divided between these parties. However, there will be no need to conduct an audit where recoveries are limited and these expenses are readily verifiable and copies of the charges are supplied. This would include simple lease agreements where rates, taxes and insurances expenses are the only recoveries outside of rent payments. In addition, to ensure compliance by the landlord, provision is made that tenants will not have to pay the current year's operating expenses if the previous year's audited accounts have not been supplied after three months.

The Bill also acknowledges that certain expenses can be attributable to a particular tenant or group of tenants. These referable expenses are usually outside the normal common operating expenses budget and are the result of additional service requirements, such as extra cleaning and disposal of food waste.

Landlords will be prevented from recovering management fees directly from tenants. There are strong differences in the debate on the legitimacy of tenants paying the management fees directly to the managers. Tenants argue that

although they pay the fees, they are not a party to the agency contract and have no say in the selection and performance of managers. Additionally, if landlords were directly responsible for remunerating their managers, they would take a greater interest in supervising their activities to ensure the highest standards of performance at the best price.

On balance, the Government has agreed with these arguments and has defined management fees within the Bill to give effect to this decision. This measure will apply to new leases and ensure that responsibility for the supervision of shopping centre management is undertaken by the parties who are responsible for the appointments to the management-related positions in a shopping centre.

The issue of tenant contributions to the landlord's land tax assessment has been contentious. Comment provided during the Green Bill consultation phase revealed that where disputes occurred, they related to inappropriate charges being claimed by the property ownership. To reflect fairness and essentially commercial practices in this matter, the proposed amendments will ensure the tenant pays only the amount relevant to his or her retail outlet by prescribing that the contribution will be limited to the "notional land tax". This amount is calculated on the basis that the land on which the tax is assessed is the only land owned by the landlord and does not attract tax at the higher multi-ownership rate.

The area of sinking funds has also seen conflict between landlords and tenants. Restrictions which limit the use of these funds to future repairs and maintenance and non-capital works initiatives will remain. The proposed amendments will require that any other sinking funds are used only for the specific purpose for which they are created. Moneys in these funds are maintained for the benefit of the shopping centre and are clearly not for any other uses. The amendment Bill extends the protection of the sinking funds provisions to all other funds and reserves to which the retail tenant contributes. This will include the audit of promotion funds and marketing levies.

Two further issues in retail leasing agreements are also included in the legislation, these being the choice of trading hours by retail tenants and the determination of certain costs of occupancy with strata title centres. As a matter of principle, the Government believes tenants have the right to determine their trading hours to satisfy the needs of their business, their marketing environment and their personal circumstances. The Government's position is to allow tenants complete discretion to determine their own trading hours. This is consistent with the current conditions set by section 16 of the Retail Trading Hours Act. This measure supports that position and ensures that any specification of trading hours in a lease is void.

Additional protection is to be extended where a tenant's lease is not renewed for the specific reason that the lessee does not open at the hours specified by the landlord. Here, the tenant can apply to the registrar and Commercial Tribunal for compensation. The tenant guide in support of the Act will also deal with this initiative.

An anomaly has been identified in the Act regarding strata title levies. Strata levy fees may include more items and charges than allowed under the Bill, which deals with valid contributions to landlord expenses. In the past, the Commercial Tribunal has ruled that landlords cannot recover any strata title levies, but this interpretation was never intended by the Act. There are serious financial implications for landlords in these circumstances if they are unable to recover levies as legitimate expenses.

As a consequence, appropriate amendments to address these issues are featured in the amendment Bill. The amendments will allow strata title levies to be included as a contribution to landlords' expenses, provided these expenses comply with existing provisions of the Act. Non-operating expense items such as capital works, construction, extensions or plant and equipment replacement and upgrades will continue to be disallowed, as is the current situation.

Generally speaking, the amendments will apply from proclamation of the definitions, powers of the Commercial Tribunal and its registrar, confirmation that tenants can have their choice of hours of operation and strata title levies; and the next applicable accounting year for the auditing of expenditure and allocation of associated costs, the auditing of sinking funds and all other contribution funds.

Importantly, for those amendments which rely on the concepts of relevant proportion and total lettable area, the amendments will apply to all new leases and extensions of existing leases. The Government acknowledges the primacy of contracts and does not therefore seek to retrospectively change existing commercial arrangements.

The amendments will make a significant contribution to the Government's aim of making the Western Australian marketplace fairer, more competitive and better informed. They also address the concerns raised by industry stakeholders during the extensive consultation processes and reinforced at the national level in the need for improved retail legislation.

The Minister for Fair Trading and his counterparts from other States have met with the Commonwealth to develop

a set of nationally consistent principles specifically for the protection of small retail business tenants. The amendments proposed in this Bill are in line with that approach. Further changes may also ensue from the ongoing discussions at official levels to achieve the nationally consistent retail tenancy laws.

The Government is firmly of the view that it is not prepared to delay this legislation until the national discussions are finalised. It believes the interests of industry stakeholders engaged in local retail property leasing will be best served by legislating the outcomes of its own consultation process as quickly as possible. I commend the Bill to the House.

Debate adjourned, on motion by Hon Nick Griffiths.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 1)

Second Reading

Resumed from 25 June.

HON N.D. GRIFFITHS (East Metropolitan) [3.22 pm]: I was pleased to enter the Chamber this morning and read that I have 46 minutes remaining for my introductory remarks on Order of the Day No 3. I look forward, as do my colleagues I am sure, to receiving an extension to the very limited period that we have to speak on these most important matters, in particular the Appropriation (Consolidated Fund) Bill (No 1). I note that, when speaking to this measure, members are able to deal with matters of policy generally, and I propose to return to the tenor of my remarks of last Thursday when I commenced to speak on this Bill.

Members will recall that I pointed out the Government's failure to have due regard to public safety. Having regard to public safety is the Government's most important job and its most crucial duty. The House may recall that I made reference to the failure of the Government to properly support members of the Police Service in their work. Among other matters, I referred to the inadequate resourcing of police operational endeavours, with particular reference to the drug squad, the child abuse unit and officers in the regions and suburbs carrying out frontline activities. In doing so, I made reference to the fact that when it came to providing not just resources to the police, but appropriate legislative support in this crucial area of public safety, the Government had failed to act with due urgency on the issues involved in sentencing, particularly remission and parole.

I referred to the Hammond report. That report was compiled by a number of eminent people; the committee was chaired by Chief Judge Hammond of the District Court. The report set out a number of recommendations. Notwithstanding the fact that the committee was first announced by the Attorney General in September 1996, the report came to light in March 1998. When pushed in the campaign leading up to the election of December 1996, the Attorney General made an announcement to the effect of "Let us not worry about the report. I am going to get in there and I am going to pass legislation to fix up the mess we have with respect to what has been categorised as truth in sentencing."

A number of questions were asked about the matter in 1997 and the usual fob off responses were given. Eventually the report was compiled and dated February 1998. It came to light in March 1998 in the usual way that the Government does matters - the issuing of a media release and a conference involving representatives of the media and the Attorney General at the front of Parliament House on a Saturday morning. So much for parliamentary scrutiny! I think it is a bit of a joke but very typical of the way these matters are done.

That was in March; it is now June and we are heading towards a significant parliamentary recess. I count the estimates committee hearings as a parliamentary sitting week and this is the seventh parliamentary week on the trot for this House. Some members participate more than others. I am beginning to feel just a little tired but that will not distract me from speaking.

Hon N.F. Moore: If Hon Nick Griffiths would like to finish today, I am quite happy to assist him with that.

Hon N.D. GRIFFITHS: Mr Deputy President, I am happy to finish whenever the work of this House has been achieved. In that regard, I point out that I have a pair from 6.00 pm and I look forward to reading the ensuing debates in *Hansard* in due course.

In the meantime, I want to address the issue of public safety. I do this because in so many ways our community feels insecure. We are failing in our duty as legislators if we do not seek to do all that we can to minimise that feeling of insecurity. People feel insecure because, in their view, they have been let down by the Government. In Western Australia they have certainly been let down by the current Government especially in this area of public safety. Public safety - or law and order, however one wants to characterise it - involves dealing properly with the police and having appropriate laws in place. It involves a social and economic climate from which people will benefit.

The Government's failure to deal properly with the police in resourcing and to have due regard to concerns of police

officers on the frontline generally is well documented. I expressed a firm view in dealing with that last Thursday. I regret that when it comes to the legislative framework in which the police have to operate and by which the community can measure just how safe it is, the Government continues to fall down.

We have been promised action on bail for some time. Bail is a difficult area. I am aware that the Bail Act has been the subject of review and that a review was finalised some years ago but consultation and consideration is still taking place. The problems with bail need to be dealt with, and the sooner the better. That is one area of public safety and law and order where the Government is falling down.

I mentioned last Thursday that, realistically, the prison system has no rehabilitation programs. People who go to prison and do not learn their lesson from the fact that they are being punished will leave subject to the social economic environment they find themselves in and be more likely to offend than if there were effective rehabilitation programs. The lack of effective rehabilitation programs has been an issue raised constantly in the short time I have been a member of this House - just over five years now - and no doubt it is an issue that was raised from time to time when members opposite were in opposition. It is not just a matter for Oppositions. All members, as representatives of the people, should be concerned that we do not have effective rehabilitation programs in our prison system to minimise recidivism. The degree of recidivism that occurs in Western Australia is far too high. We can do better; we should be doing better; and it should be a priority when we are dealing with those matters.

Speaking of prisons, I made reference last week to the Attorney General in his capacity as the Minister for Justice constantly moving around planning for the accommodation of prisoners and I said that the Ministry of Justice had not been operating correctly. It was clear it never was going to operate correctly. I remember in the 1993 election one of the major planks of the Government's law and order policy was that it would have a Ministry of Justice - a mega ministry a la Jeff Kennett before he thought about having mega ministries - and this Ministry of Justice would look after a number of matters such as prisons and servicing for courts.

Many of those functions were not part and parcel of the core responsibilities of people who found themselves involved in a greater ministry. As a result, we have a ministry which, in terms of resources, is primarily involved in running prisons but has a number of add ons. Having those add ons does not enable the ministry to operate as effectively as it otherwise could. It is time that the Government recognised that its Ministry of Justice experiment - which we warned about in 1993 when it came into being - is a failure. The Government should revisit that experiment and, hopefully, when it is revisited, the problems that the Government and the community have been experiencing in the planning of prisons will be diminished.

We need only to note what has happened at the top of the Ministry of Justice and the significant turnover of persons who have found themselves in charge at a bureaucratic level from time to time. Mr Gary Byron is, at the very least, the latest significant victim of a system which does not seem to be working. I am being kind to the Government when I say he is a victim of a system. I am not saying matters were perfect before the Ministry of Justice came into being - far from it; however, it is an experiment that has failed and the sooner the Government revisits it, the better.

Hon Derrick Tomlinson: Would you recommend a return to the separation of the Attorney General's office from the Department of Corrective Services?

Hon N.D. GRIFFITHS: My view - and I would be surprised if the Attorney General does not agree with me - is that those matters which properly and essentially concern the role of the Attorney General should be separated from running prisons. I make the same observation - and I do need to reflect on it more - that if we are to have an Attorney General and a Minister for Police, the role of an Attorney General should be separate from that punishment aspect and separate from the policing investigative aspect. I may sound like a traditionalist, but the role of the Attorney General should be separated. He should have a more significant involvement in dealings with other portfolios, particularly with respect to due process in ensuring that proper legal advice is tendered to other Ministers. That may mean a significant easing of workload for whoever happens to be the Attorney General if he or she ceases to be what was, when we were in power, the Minister for Corrective Services. I think Hon Joseph Berinson combined both.

Hon Derrick Tomlinson: He was the Attorney General.

Hon Max Evans: He had both. He had problems.

Hon N.D. GRIFFITHS: They were separate ministries; however, there were problems with that. We ask too much of Ministers from time to time when we ask them to wear a number of hats. It is better that they concentrate, insofar as they are able to, on a particular hat. I note that the Minister for Finance interjected in an appropriate way and he occupies a number of hats; however, the predominant hat that he wears is that of Finance. I cannot see any apparent conflict with the other matters.

Hon Max Evans: You can gamble with the State's money!

Hon N.D. GRIFFITHS: The portfolio of Racing and Gaming involves a fairly interesting financial take.

I move on from that aspect and refer to the legislative tools that we are not, as a Parliament, dealing with quickly enough. Part of this is historical; however, it also looks to the future. I note that this Parliament still has not enacted surveillance legislation. We are still in session and I cannot allude to debates in the other place; however, I recall media reports of last December dealing with matters concerning the Minister for Police and a Bill dealing with surveillance. I note that the "Weekly Digest", which sets out what the Parliament has dealt with and the progress of Bills and so on, makes reference to a surveillance Bill. I am aware that there are problems and there were matters of controversy; however, that still has not been dealt with.

How can the community feel confident about a Government which fails to deal with something which it says is important to public safety? It puts that matter up in neon lights, but fails to enact legislation. It took a long time to pass the telecommunications interception legislation. It took until August 1997 from the passage of that legislation in 1996 for the police telecommunications interception unit to be operational. That delay and lack of a sense of urgency at a time when people in the community feel insecure is not appropriate. When we consider that very basic agency of government dealing with the protection of the public, the Police Force, it is important to note just how the Government - and I say this with respect to the Government - after it was first elected in February 1993, has dealt with the matter. We have had two Ministers for Police, the members for Wagin and Darling Range respectively. Neither of those Ministers has done something which is fundamental to the operations of the Police Force; that is, reform the Police Act.

Reference was made recently to anachronisms in the Police Act. I note particularly, without going back to the substance of the debate on section 8, the proposition that section 8 of the Police Act without a right of appeal is an anachronism. It is not the appropriate way to treat employees in the 1990s. I doubt that it was an appropriate way to deal with employees in the 1890s. Of course, that was in the master and servant era. Some may argue that we are in the process of returning, or to a significant degree have returned, to a master and servant era.

However, in dealing with the police and Police Act, the House should recall that these are issues which I have raised almost every year that I have been here with a view to instilling in the Government some sense of urgency so that the Police Force has a modern framework in which to operate. The reform of the Police Act is not only something that I have raised but also that others have raised. It was given fairly significant consideration by the Law Reform Commission a considerable time ago.

The Law Reform Commission made a number of recommendations, some of which could have been dealt with on a discrete basis rather than overhauling the Police Act as such. However, that has not occurred, notwithstanding a number of promises to that effect. Given that this is the last day of the financial year, it is timely for me to refer to how matters seemed to be progressing during the time of the first Court Government's Minister for Police, when the President was in the House in another capacity as the spokesperson for the Minister for Police.

I will refer to some matters recorded in *Hansard*. On 16 August 1994, well into the term of the first Court Government, I asked a question of Hon George Cash, who was then the Minister representing the Minister for Police, about what was being done to amend the Police Act in substantive accord with the recommendations of the Law Reform Commission. His answer was very positive - it is always good to receive positive answers. He response was -

> Discussions are still continuing between the Law Reform Commission, the Attorney General, the Police Department and me in relation to a number of issues. I intend making a submission to Cabinet as soon as possible.

That was very encouraging, but that was in August 1994. I am a little less encouraged now than I was at that time. Notwithstanding that, I thought that the processes of so-called conservative government may have been a bit faster than I have come to realise. I asked the question again on 27 September 1994. The question on page 4863 of *Hansard* states -

> (1) What is the current timetable for changes to the Police Act?
>
> (2) What are the reasons for the continuing delay?

The response was -

> Cabinet has recently approved proposed amendments to the Police Act to enable the drafting of a summary offences Bill and other legislative amendments in respect of police offences and powers. This is the first major reform of the Police Act, which is over 100 years old. Following the report of the Law Reform Commission further discussion was necessary between various agencies on the report's recommendations.

The part I like sums up why people in our community believe that the Government is not performing well on the crucial issue of public safety. The core part of the answer states -

> The proposal is being progressed as a matter of priority within the Government's law and order legislative program.

This is not just any matter, this is a "matter of priority". Those are the words of Hon George Cash on 27 September 1994. When I first became a member of Parliament I did not understand the traps and I thought matters might move along faster than I have come to expect. I still evidence signs of impatience and refer to page 9631 of *Hansard* of 13 December 1994. I asked the then Leader of the House representing the Minister for Police question on notice 1590, which states -

> Why is the review of the Police Act taking so long, given the straightforward recommendations of the Law Reform Commission?

The answer provided was -

> I refer the member to my reply to question on notice 771 of 1994.

That is the response I have just read. The response of the then Leader of the House were words of great encouragement. I was very encouraged by them as Christmas was approaching and I was looking forward to a bit of peace on earth and public safety in Western Australia. His answer continued -

> Drafting instructions for the proposed legislation have been completed and will soon be referred to Parliamentary Counsel for drafting of the Bills.

This is the part I really like, remembering that this is 1994 -

> It is intended that the new legislation will be introduced in the next parliamentary session.

I am not suggesting that we are on a pathway to hell, but that was a very good intention.

Sitting suspended from 3.45 to 4.00 pm

Hon N.D. GRIFFITHS: I regret that I have only 23 minutes in which to speak unless the House gives me an extension.

Hon N.F. Moore: We are happy to extend through the debate.

Hon N.D. GRIFFITHS: I was worried that I would be the recipient of such a threat.

In dealing with the Government's very poor performance in public safety, the Leader of the House and his colleagues cannot use their usual trick of washing their hands like latter day Pontius Pilates because the water flow is not what it should be.

Before we adjourned I made reference to the good intention that the legislation be introduced in the next parliamentary session; that is, before 13 December 1994. Time passed, summer came and went and we progressed into 1995. It was a new session and I thought it was not inappropriate that I be a little persistent and raise the issue again, so I did. Mr President was the poor, unfortunate Minister left to carry the can. He answered in a representative capacity, so I do not blame him for the answer. On 11 April 1995 I asked whether it was still intended that the new legislation be introduced in that parliamentary session. His answer was very interesting -

> I have been advised by the Commissioner of Police as follows -
>
> (1) The legislation reforming the Police Act is currently being drafted and it is anticipated that it will be introduced in this parliamentary session.

Promises! Promises! We have had a few parliamentary sessions since then and I am sure it will not be introduced during this session, but stranger things have happened. If the Minister for Labour Relations were in charge of these matters he would introduce a long awaited Bill immediately and we could have it dealt with. Some members may want to deal with that expeditiously.

Hon Derrick Tomlinson: Perhaps he should be Minister for Police.

Hon N.D. GRIFFITHS: The Minister for Labour Relations has been touted by Hon Derrick Tomlinson as a future Minister for Police. It is a matter for the Premier how he reshuffles his pack.

Hon Bob Thomas: No, he said you should be Minister for Police.

Hon N.D. GRIFFITHS: I am sure Hon Derrick Tomlinson was referring to the member for Riverton as a prospective Minister for Police. If the member for Riverton were Minister for Police, it would be a very interesting reshuffling of the pack, which contains very few aces, kings, queens or jacks. I am glad Hon Derrick Tomlinson interjected. I regret that I did not hear what he said and therefore was not able to answer him as fully as I otherwise would have. However, his interjecting reminded me of another failure in policing.

Some years ago he and I were members of a committee that seemed to go on forever. It has found numerous new lives. The committee undertook to consider the police academy at Maylands throughout 1994 and during early 1995. The committee tabled a report recommending that the issue be addressed and that a new academy be built. That should be well under way by now. The reason it has not got under way to the degree it should have is that, once again, the Government is failing to pay due regard to public safety. It has been playing politics about the siting of the academy. We have the farce of the people of Midland being deluded into thinking that the Government was seriously considering building an academy in that area when throughout the process it was intended that it be built at Joondalup. The people of Joondalup knew that -

Hon Derrick Tomlinson: That is cynical.

Hon N.F. Moore: It is cynical and wrong.

Hon N.D. GRIFFITHS: It is not a matter of being cynical and it is not wrong. The Government, of which Hon Norman Moore is a senior member, has played politics with the siting of the police academy. In doing so, it has delayed the construction of the academy when the select committee said many years ago that it should be done forthwith having due regard to this very important question of public safety. Once again, that illustrates -

Hon Ken Travers: They almost gave it to Murdoch except for the work of the local members on both sides of Parliament.

Several members interjected.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): The Joondalup lobby will come to order!

Hon N.D. GRIFFITHS: I am trying to give the members from the North Metropolitan Region a wise eastern metropolitan discourse. Midland has much going for it, but unfortunately the people of that area were deluded by this Government. Its mismanagement has delayed the construction of the new police academy. I pay great tribute to the work of Hon Ken Travers in ensuring that the people he represents are served well. Notwithstanding that he is in opposition, he is a very persuasive advocate. He has delivered the goods where so many others have not. When he is in government, members opposite had better watch out. They will not be watching from these benches - they will have left the House because they will be roundly defeated at the next election.

Hon Tom Stephens: By One Nation candidates.

Hon N.D. GRIFFITHS: Mrs Maggie Bass is coming after them. If she does not get them, Marie Louise will. When one thinks of the Liberal Party, one thinks of Marie Louise.

The DEPUTY PRESIDENT: I think it is "Margie".

Hon Max Evans: It's Margie Bass.

Hon N.D. GRIFFITHS: Once again, the web of intrigue in the Liberal Party has been exposed with the relationship between the Minister for Finance and Mrs Bass -

Hon N.F. Moore: If I did not know better, I would think you were trying to waste time.

Hon N.D. GRIFFITHS: The Leader of the House should know better: I am not into wasting time, unlike him when he was in opposition.

One of the great sensitive Ministers of the Court Government is the Attorney General. He is so sensitive that when he promises something, it will occur.

Hon B.M. Scott: He is a new age, sensitive man.

Hon N.D. GRIFFITHS: He is very consistent with his promises. He would never say something unless he meant it. He always delivers the goods; it is just a matter of being a little patient and not getting too excited.

I have referred to the appalling way that the Police Force has been treated by this Government. I have made mention of the legislative measures under which the community should operate with respect to public safety and I referred, in general terms, to a social and economic environment. If people are not treated fairly, if they do not operate under

a just legislative regime, there is a greater likelihood of a society being dysfunctional, with all that involves for public safety. When it comes to treating people who live together as man and wife, who have not gone through a form of marriage pursuant to the Marriage Act, this Government's record is atrocious. That is notwithstanding the fact that many years ago, a committee was presided over by Hon Muriel Patterson which dealt with so-called de facto relationships. This is not a partisan issue; it is not a matter which demeans Marriage Act marriages, and it is a matter of treating people appropriately.

I refer to that comment of the former Attorney General, the member for Kingsley, which appeared in *Hansard* of 19 October 1994 at page 5666. She said the issue was beyond party politics - and so it is! However, because of some strange so-called sensitivity on the part of the Attorney General, this matter has not been progressed. It has not been progressed notwithstanding the fact that the member for Cottesloe caused the Opposition to be informed of the legislative program for the spring sitting last year by letter dated 13 August 1997. One of the Bills to be dealt with was the De Facto Relationships (Property) Bill which said simply was to allow the Family Court to deal with property disputes in de facto relationships. That Bill has not appeared here - and that is a scandal, because it has been promised for so long.

In the short time available to me now, I propose to make reference to the number of times it has been promised, and quite frankly, the promise has not been delivered. This is an illustration of how the Government and its Ministers behave. When confronted with an issue, they promise something. The greatest offender in that regard - I will let Hon Max Evans off the hook - is the Attorney General, closely followed by someone else. I do not want to get him excited at the moment, because he might accuse me of wasting time. I am not. I merely demonstrate the fact that this Government is very long on promises but very short on results. We are lucky to get any reasonable result.

Members may recall that on 1 October 1994, a Labor member, Dr Judyth Watson, introduced a Bill dealing with de facto property relationships. That Bill was defeated in the Legislative Assembly, but notwithstanding that, the Minister handling the Bill - the then Attorney General, the member for Kingsley - made a number of comments to the effect that the fact that the Family Court would deal with de facto property matters is not at issue. She said that at issue was the particular form of legislation. This is fundamentally a bipartisan matter; yet nothing has happened and nothing continues to happen.

On 4 April 1995, Dr Watson asked the then Attorney General -

> In which week will legislation to provide separating de facto spouses with access to the Family Court for property and other disputes be introduced?

The response was -

> Legislation dealing with property matters in dispute in de facto relationships will be introduced in this year's spring session of Parliament.

I remind members that was on 4 April 1995. As a follow-up in this House, I raised the matter with the Minister representing the current Attorney General by a question without notice on 28 September 1995 at page 8856 of *Hansard*, which reads -

> (1) When is it intended to introduce legislation relating to de facto relationships and disputes arising from such relationships?

The answer reads -

> (1) It is intended to introduce the De Facto Relationships (Property) Bill into the Parliament in the current session, subject to any amendments to that Bill which may need to be incorporated as a result of the reforms to Family Law presently under consideration by the Federal Parliament.

My next question was -

> (2) If such legislation will not be introduced in 1995, why is that so?

The answer to that question was "not applicable". The next question reads -

> (3) What is the reason for the non-introduction of such legislation to date?

The answer reads -

> (3) The matter of de facto relationships has been under consideration by the Standing Committee of Attorneys General for some time, and a number of issues, including referral of power and same gender de facto relationships, have only recently been resolved.

There was some resolution of those matters. Time passed, but unfortunately nothing seemed to get done. On 19 March 1996, at page 65 of *Hansard* I asked the current Attorney General -

> When is it intended to introduce legislation relating to de facto relationships and disputes arising out of such relationships?

The answer by Hon Peter Foss reads -

> In this session of Parliament.

Promises, promises! I returned to my old ways and became a bit impatient. I asked another question on 23 October 1996, which reads -

> I refer to question on notice 30 of 19 March 1996 when I asked the Attorney General: When is it intended to introduce legislation relating to de facto relationships and the issues arising out of such relationships? He replied: In this session of Parliament. Why is no such Bill on the Notice Paper?

This answer takes the cake. This is a responsible Government! This is how a sensitive and responsible Minister treats Parliament. The answer was -

> Perhaps the member can ask the question after the session is completed.

What a ridiculous answer to a straightforward question. The Government makes promises but does not deliver. The answer was absolute arrogance.

A new Parliament was formed. Hon Cheryl Davenport took up the issue in March 1997, at pages 13 and 14 of *Hansard* where she asked -

> Tasmania and Western Australia are the only Australian States which still must enact breakdown of de facto relationships laws.
>
> (1) Does the Attorney General intend to introduce this long-awaited legislation during the autumn session of Parliament?
>
> (2) If not, why not?
>
> (3) If so, when and on what date might it be proclaimed?
>
> (4) Will the jurisdiction for the legislation be the Western Australian Family Court, particularly as mediation and counselling facilities already exist?

I regret to say that mediation is not quite there.

It continues -

> (5) If not, why not?
>
> (6) If not, what other jurisdiction will deal with such cases?

That is a very appropriate, up to date question covering the ground. The response was pretty pathetic. The Attorney General said -

> I am unable to say when the legislation will be introduced because that is a matter slightly out of my control. I hope that at least some time this year it will be introduced. I cannot provide a precise date. Perhaps the member should ask members opposite rather than government members in this House when the legislation will be passed. As I understand it, the proposal will be for the Family Court to have jurisdiction.

That is a most unimpressive answer.

A year has now passed. The Attorney General has made all sorts of promises, as Ministers of this Government do, to people interested in this issue. I am aware, for example, that the Family Law Practitioners Association has a deep interest in the matter and has made representations to the Attorney General, and he has given it all sorts of undertakings which have not been fulfilled.

I raised this issue again on 20 May this year, and the Attorney General responded by saying, in effect, that he would not deal with the matter now because the abortion debate was running and people were sensitive. The Attorney General and I were on opposite sides in the abortion debate. However, both I and my party want to effect de facto property law reform as soon as possible. Therefore, the Attorney General was just making a silly excuse for his inaction on this matter. Worse than that, he then tried to find another excuse. The Attorney said at page 2862 of *Hansard* of 20 May that -

> The subject is sensitive. One other small problem is the fact that the Family Court is financed by the Federal Government.

Did he not know that? He said also -

> By conferring jurisdiction on the Family Court, we have the small problem of how we operate that with the Federal Government.

The Family Court of Western Australia has been around since 1976. The operation and funding of the Family Court should be well known to anyone who holds the office of Attorney General. I thought that as early as 1990, taking into account the report of the Select Committee on De Facto Relationships presided over by Hon Muriel Patterson, any difficulties with regard to the Family Court and the Federal Government would have been sorted out. The Attorney General and his Government have, once again, been tardy in their duty to deal with this important issue of public safety.

Debate adjourned, on motion by Hon Muriel Patterson.

[Continued on page 4964.]

SCHOOL EDUCATION BILL

Discharge from Notice paper and Referral to the Standing Committee on Public Administration

HON LJILJANNA RAVLICH (East Metropolitan) [4.26 pm]: I move -

> That the order of the day for the School Education Bill be discharged and that the Bill be referred to the Standing Committee on Public Administration.

The School Education Bill is a major piece of legislation and requires thorough scrutiny. This is the first time since 1928 - or in 70 years - that the Education Act has been rewritten. This Bill will have a vast ranging impact on our community in the broader sense; that is, on parents, interested community members, students, education professionals, academics and other people.

This administrative framework for the future of our education system cannot be taken lightly, and we need to take a comprehensive look at the Bill from a multiparty perspective in order to achieve the best outcome for all Western Australians. The Legislative Council is now a House of Review, and it is essential that it exercises its role effectively in the interests of all Western Australians.

The Standing Committee on Public Administration will have the opportunity of bringing before it key stakeholders in the Western Australian education system. In saying that, I reaffirm that we do not intend to hold up this process. I am more than aware that the Government would like this Bill to pass through this place as soon as possible and that it would like the Act to be effective and operational from the commencement of 1999. Given the importance of this Bill, the committee process will enable agreement to be reached on clauses of the Bill in a more cooperative and coordinated manner than I believe will be achieved by arguing the toss in the Chamber, with the potential for Labor to move amendments and the Greens (WA) and the Democrats to move amendments on top of those amendments, which may result in an Act that is not particularly workable and not in the best interests of the Government and the education system.

Support for this motion will allow a range of issues to be examined about which the Australian Labor Party has some concerns, and during the committee stage we will seek clarification on matters which include, but are not limited to, the following areas.

Hon Derrick Tomlinson: Do you mean during the Committee of the Whole?

Hon LJILJANNA RAVLICH: No; during the proceedings of the Standing Committee on Public Administration. Our inquiries will focus on access to government schools, local intake areas, school fees and charges, an education Ombudsman, corporal punishment, school closures and amalgamations, and school sponsorship and advertising. The aim will be to examine these clauses in greater detail and to explore their impact on the key players, rather than just rush through and move a set of amendments without due consideration for their impact on those people.

Hon Derrick Tomlinson: Do you anticipate that the Committee of the Whole will have any say in the decisions of the committee?

Hon LJILJANNA RAVLICH: It is possible that agreement will not be reached on all areas. The committee process will not preclude members from raising in the Committee of the Whole any issues on which they seek clarification. We will need to wait and see. The beauty of taking this Bill to the Standing Committee on Public Administration is that the committee will be able to call people to give presentations on their perspective, such as people from the

independent school system, the Western Australian Council of State School Organisations, and the State School Teachers Union. It is not intended to reopen the consultation process. However, it will be interesting to get some greater depth on these critical areas.

Many parts of the School Education Bill require further analysis. I have had a close look at the debate in the other place. The Minister said in response to many of the questions that were raised by the Opposition that these issues would be addressed by regulation. The committee will have an opportunity to look at how far the drafting of regulations might have gone and to consider what the Government's intentions might be. It is a positive move. The committee may be able to seek further explanations and possibly obtain further clarification on some of the questions which were not answered by the Minister in the other place. Referring the Bill to the committee is about achieving better outcomes; it is not about slowing down the Government's legislation. It is our intent to ensure that this State has an excellent School Education Bill. The best way to achieve that is through thorough scrutiny of the Bill by the Standing Committee on Public Administration.

HON BARRY HOUSE (South West) [4.31 pm]: I oppose the motion. It is inappropriate for a number of reasons. Firstly, no reporting date was mentioned by Hon Ljiljanna Ravlich. Even though she stated that it was not her intention to frustrate the Government and delay the Bill, the motion is completely open ended.

Secondly, if it must be referred to a committee it should be the Standing Committee on Legislation, not the Standing Committee on Public Administration. The Public Administration Committee, of which I am a member, has six members from across different parties. I am a little peeved that this decision has been made by the parties who have the numbers in this Chamber. Item 4 on the agenda for the Public Administration Committee, which will meet tomorrow, on Wednesday, 1 July at 1.30 pm, is the School Education Bill.

Hon N.F. Moore: That is outrageous - talk about preempting the Parliament!

Hon Kim Chance: That item is there at my request as chairman. The committee has already discussed it.

Hon N.F. Moore: It has not been referred to it yet.

Hon BARRY HOUSE: I am glad that the chairman of that committee has admitted that item 4 is there on his instruction and that the committee has already discussed it. I can refer to these matters, because they were part of an informal discussion last week and not part of the committee's deliberations. The committee spent more time discussing the School Education Bill in informal discussion than on any other business. At that stage the Bill was still in the other place. I said that was totally improper and out of order. To have a Bill put on a committee agenda prior to its even reaching this Chamber is totally out of order.

Hon Tom Stephens: It shows that the chairman is skilled in progressing matters.

The PRESIDENT: Order! Hon Barry House has the floor and he is entitled to put his case.

Hon BARRY HOUSE: It shows, regrettably, that the chairman wants to run his own agenda through the committee rather than provide a decent analysis of the School Education Bill. Let us examine the mechanics of what will occur.

Hon Bob Thomas: And you wonder why Pauline Hanson is taking all your votes.

Hon Derrick Tomlinson: She's not offensive!

The PRESIDENT: Order! If members want a discussion, there is the door; they can move outside and have their discussion.

Hon BARRY HOUSE: Before this House refers the Bill to the Public Administration Committee it should stop for a minute to consider what that will achieve. The committee has six members. I anticipate from what Hon Ljiljanna Ravlich has said that it is the committee's intention to do most of the work on the Bill during the parliamentary break.

Hon Ljiljanna Ravlich: I did not say that. It is my intention that we would finish the review and you will have the Bill ready for the beginning of next year.

Hon BARRY HOUSE: In that case Hon Ljiljanna Ravlich does not have a reporting date, the referral is open ended and the inquiry will continue at the committee's convenience for however long it wants. That counters the member's argument that she wants the Bill in the committee and back into the House in a reasonable time.

It will be well nigh impossible for the Public Administration Committee to do any work during the break. Three members of the committee are also members of the Select Committee on Native Title Rights in Western Australia, as is the committee clerk. As members know, that committee will be out of the State for a large part of the break. I also know from the committee's informal discussions last week that the committee has already considered that and decisions have already been made in that regard. The chairman proposed a subcommittee to inquire into the School

Education Bill, even to the point of suggesting a substitute member for the purpose of inquiring into this Bill. It is proposed that the subcommittee, if and when it is put into place, will consist of three members. That subcommittee will not reflect the balance on the committee; that will be totally distorted. Either way I believe it is totally inappropriate for this Bill to go to the Public Administration Committee. If members opposite are intent on sending the Bill to a committee it should go to the Legislation Committee.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Hon Ljiljanna Ravlich has had her say.

Hon BARRY HOUSE: Hon Ljiljanna Ravlich's motion does not propose a reporting date, which is a serious omission.

Hon Tom Stephens: Would Hon Barry House like to move an amendment?

Hon BARRY HOUSE: Will 10 July do?

Hon Ljiljanna Ravlich: That is being smart. Hon Barry House is not interested in education.

Hon BARRY HOUSE: It is not appropriate for the Public Administration Committee to consider the Bill. That committee has five outstanding inquiries which it needs to work on before it can put any meaningful time into another inquiry. If it must go to a committee, it should go to the Legislation Committee.

HON KIM CHANCE (Agricultural) [4.38 pm]: I was not going to speak on this Bill, but I feel moved to do so -

Hon N.F. Moore: Hon Kim Chance owes the House an explanation.

Hon KIM CHANCE: - although not on the terms put by the Leader of the House. In providing that explanation I will address the issue of the suitability of the Standing Committee on Public Administration to undertake this inquiry. The schedule on page 155 of the Standing Orders of the Legislative Council deals with the standing orders pertaining to the Standing Committee on Public Administration and paragraph 3(1) sets out that the functions of the committee are -

> to inquire into and report to the House on the means of establishing agencies, the roles, functions, efficiency, effectiveness, and accountability of agencies and, generally, the conduct of public administration by or through agencies, including the relevance and effectiveness of applicable law and administrative practises; and

Hon Derrick Tomlinson: The member would do better to look at 3(2).

Hon KIM CHANCE: Paragraph 4(a) reads -

> "Agency" means -
>
> (a) an agent or instrumentality of the State Government, established for the purpose of developing, implementing or administering any program or policy with a public purpose or any such program or policy that relies substantially for its development, implementation or administration on public monies or revenue;

As Hon Derrick Tomlinson indicated, I can also refer the House, but I will not, to paragraph 3(2).

Hon Derrick Tomlinson: You should because that's the pertinent one.

Hon KIM CHANCE: That is not the point I was trying to establish. However, paragraph 3(2) states that the committee is to consider and report on any Bill referred to it by the House, providing for the creation, alteration or abolition of an agency, including abolition or alteration by means of privatisation. I did not address that specifically because I -

Hon Derrick Tomlinson: That's what the education Bill is all about.

Hon KIM CHANCE: I do not believe it is. Paragraph 4(a), on page 156, directly relates the function of the Standing Committee on Public Administration to an examination of an item of legislation -

Hon Derrick Tomlinson: You are wrong.

Hon KIM CHANCE: That deals specifically with the role of an agency. Hon Derrick Tomlinson may well disagree, but the standing orders are there in black an white for him to read.

Hon Derrick Tomlinson: It's the interpretation, but you have misinterpreted it.

Hon KIM CHANCE: Hon Derrick Tomlinson believes I have misinterpreted paragraph 4(a). He should tell me which part of that paragraph he believes I have misinterpreted.

The PRESIDENT: Order! Hon Derrick Tomlinson will have an opportunity to speak in a moment.

Hon Derrick Tomlinson: I will take it.

The PRESIDENT: Order! In the meantime, I ask him to let Hon Kim Chance continue.

Hon KIM CHANCE: Perhaps Hon Derrick Tomlinson does not believe, for example, that the Education Department is an instrumentality of the State Government as described in paragraph 4(a); it is established for the purpose of developing, implementing or administering any program or any policy with a public purpose; or relies substantially for its development, implementation or administration on public money or revenue. He may not - I do.

Hon Derrick Tomlinson: So do I.

Hon KIM CHANCE: I think he is wrong, and I am right. A proper debate between him and me is not the reason I sought the call. Possibly a number of the standing committees of this House have within their jurisdiction a capacity to carry out such a review; for example, the Standing Committee on Legislation, the Standing Committee on Ecologically Sustainable Development, the Standing Committee on Estimates and Financial Operations and, possibly, the Standing Committee on Constitutional Affairs and Statutes Revision.

Hon N.F. Moore: It could not be sent to that because the numbers wouldn't allow it.

Hon KIM CHANCE: Why this committee was chosen to fulfil this role is not a matter for me to contemplate.

Hon N.F. Moore: You already have put it on your agenda. That means you have contemplated it.

Hon KIM CHANCE: It is not a matter on which I have made any direct decision. It was suggested to me that somehow improperly two things have occurred: Firstly, that the education Bill stands on the agenda for the meeting tomorrow afternoon of the Standing Committee on Public Administration; secondly, that the matter was referred to at all, in the context of last week's meeting of the committee. Again I disagree. I raised the matter with the committee informally before the meeting was officially opened for the specific purpose of forewarning every member of the committee, not to mention the staff, that it was possible that this could happen and, indeed, likely that it would, given the numbers in the House.

Hon Barry House: It's a fait accompli.

Hon KIM CHANCE: I cannot tell Hon Barry House whether it is a fait accompli, since I cannot speak with any authority at all for the way in which only 12 of the 34 votes in this House will be directed. A number of decisions may have been made in the six days between last Wednesday and today, which may have changed the situation; unlikely in respect of the 12 votes I can speak for, but possible in respect of another five, and maybe even more.

Having had the experience sometime ago of introducing an important matter - to wit, our review of the industrial relations amendment Bill - without giving, in the view of some members, reasonable notice of my intention to do so, I was particularly concerned that every member of the committee had as much notice as I could possibly give. Which time was I right and which time was I wrong? Was I wrong in the first instance by introducing a matter which was necessary to be dealt with at the time we received it, and without notice; or was I wrong on the second occasion by giving a week's notice that a matter might well be introduced? Members can say that I am right or wrong on one of those two occasion, but not on both. I think providing fellow members and the staff of the committee with the courtesy of allowing them to know what, I believe, is currently planned in respect of the committee's activities is the right thing to do. Obviously I will take advice on that at any time.

That leaves me with one issue on which to comment - the appearance of the School Education Bill on the committee agenda. Again, that is simply giving fair notice to committee members that the matter may well appear. Hon Barry House has said that I have treated the matter as a fait accompli. To this moment I do not know whether it is.

Hon Barry House: It should not be on the agenda.

Hon KIM CHANCE: I do not know whether all 17 votes of the Legislative Council are committed to supporting this motion for referral.

Hon Ljiljanna Ravlich: A majority of one.

Hon KIM CHANCE: I do not know whether those 17 members will be here to vote when - or if - the division is called. I do not know whether any one of those 17 or a group underneath the banner of a party name may have changed his or her mind in the interim. All I can say with reasonable certainty is that at the date of the last

information I had on this matter, this would be the case. I wish I had the power to determine whether it be a fait accompli or not but, regrettably, I do not. I suppose while I am on my feet I should address the matter, albeit briefly.

The PRESIDENT: Order! Yes, it would probably be a good idea for the member to get around to that!

Hon KIM CHANCE: The education Bill is without doubt a significant, fundamental piece of legislation and one that I believe none of us takes lightly. This Bill goes to the whole question of the future of education in this State and must be taken very seriously by everyone. The legislation has arrived in this House on what is probably the last or second last day this House will sit prior to prorogation. On 7 August or thereabouts, this Bill will simply cease to exist. If we do not refer this Bill to the committee, no work will be done by this House in examining it, progressing its development and - who knows - even improving it until 8 August, or thereabouts when the House resumes.

Hon N.D. Griffiths: A missed opportunity.

Hon KIM CHANCE: I thank Hon Nick Griffiths for prompting me. It would be a missed opportunity if we failed to use the resources of the House, such as they are available. Hon Barry House has pointed to the fact that our resources are strained, and he is dead right. Such of those resource that are available should be devoted to further study of the Bill prior to our resuming in the spring session.

As Hon Ljiljanna Ravlich said, the Opposition has no wish to defer, delay or in any way hinder the passage of this Bill. Indeed, her argument was clear enough: It is the Opposition's aim with this motion to assist the Government to progress the Bill's passage.

I agree 100 per cent with most of Hon Barry House's other comments. It is true that we have a resources difficulty on the Standing Committee on Public Administration, and that committee members have duties with other committees which will make them unavailable during some of the winter break.

Hon Barry House: It makes the motion even more presumptuous.

Hon KIM CHANCE: I agree with the matter of presumption, but one would probably not be in this profession if one were not presumptuous. The resources of the committee, both physical and staffing, are strained, but that is not an excuse for not accepting, by virtue of a subcommittee, to progress the examination of this Bill, which is important enough to warrant such examination.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.51 pm]: As Hon Barry House indicated, the Government does not support this referral motion for a number of good reasons. This Bill has probably had more public consultation than that given to any other Bill.

Hon Ljiljanna Ravlich: What about the Hairdressers Registration Repeal Bill?

Hon N.F. MOORE: All right. The exception is the Hairdressers Registration Repeal Bill, upon which, interestingly, members opposite managed to change position 180 degrees after two looks. Therefore, what on earth will they come up with if they take another look at this Bill?

Hon N.D. Griffiths: Wait and see.

Hon N.F. MOORE: I cannot stand the thought of it.

This Bill was put together in 1994 by a reference group which understood the education system. Out of that process came a Green Bill, the purpose of which was to create a draft Bill for public comment so people could see what was in mind, without making any commitment one way or another. That Green Bill was made available to a range of people. A plain English summary of the legislation was also made available so people could understand its intention. Thirty-one public meetings were held in 16 different locations; two interactive video conferences were held for country people; it was made available on the Internet for anybody who wanted to access it by that means; and 322 submissions were received and taken into account. In fact, the Green Bill was substantially amended as a result of submissions received. The Bill has had countless hours of debate in the Legislative Assembly.

Nevertheless, 12 members of the Labor Party in this place want to be the Government and decide what the School Education Bill should contain. The Labor Party has so few members in this Parliament these days that its Caucus meetings can be held in a telephone box. The people of Western Australia did not want them at the last election, and they probably will not want them at the next election either. As members opposite occasionally win the votes of a few other members in this Chamber, they try to take control of the agenda and govern from opposition. They do not agree with some matters in the School Education Bill, so they are trying to exert their will on the system. Members opposite are not the Government.

Hon Ljiljanna Ravlich: This is a House of Review.

Hon N.F. MOORE: I know, and this Bill has been reviewed ad nauseam. There is no reason that this entire Chamber cannot review this Bill for a great length of time as well. This Bill is of interest to all members, not just members of the Standing Committee on Public Administration Committee. We have a standing order now which seeks to expedite legislation by sending Bills to committees; however, when the legislation returns to the Chamber, we do not debate the issues agreed to by the committee unless a member moves an amendment. Hon Helen Hodgson found a problem with that order the other day, and we amended it slightly so members may talk to the first clause of a Bill.

Every member will wish to speak to this Bill. If it is referred to the Public Administration Committee, or any other committee, and the committee says it agrees with X clauses, the Bill cannot be debated unless somebody moves an amendment to those clauses. Goodness gracious, that situation is ridiculous!

Every member of this House has a serious interest in the Bill. In fact, we have not debated the second reading and do not know whether the House agrees to its principle. It is extraordinary to refer a Bill to a committee before the second reading debate.

Hon Kim Chance: Parliament will be prorogued before it gets there.

Hon N.F. MOORE: It makes no difference.

Hon Kim Chance: It does - I'm sorry.

Hon N.F. MOORE: If the member thinks he has time between now and prorogation to go through the Bill with a fine-tooth comb, and return to the Chamber after considering public submissions and every clause, he is having us on. It is totally unacceptable that the member has pre-empted this House.

Hon Kim Chance: I call it a courtesy.

Hon N.F. MOORE: It is no courtesy at all. The member has no right to do it.

Hon Kim Chance: Rubbish.

Hon N.F. MOORE: If I did such a thing, members opposite would say exactly what I say now.

Hon Kim Chance: You do it all the time.

Hon N.F. MOORE: I have the right to do certain things regarding the activities of the House.

Hon Kim Chance: It is your role as the Leader of the House.

Hon N.F. MOORE: That is right. The member is not the Leader of the House - I suspect that he will not be either.

This motion will give six members of this House some sort of -

Hon Barry House: Three members, as three cannot be there.

Hon N.F. MOORE: Therefore, only three members will get a go at this Bill. Having considered their position, no other members will be able to speak on clauses unless a member moves an amendment to those clauses. That is ridiculous. That is not what this standing order is meant to achieve. It is meant to apply with certain Bills when they are sent to a committee so that its members can apply their expertise to a Bill on issues about which the Chamber need not worry. Such a Bill is then returned to the Chamber for an expedited passage. The School Education Bill deserves consideration by the Committee of the Whole House on every clause. I do not know what the member is seeking to achieve in sending the Bill to his committee in the time frame outlined.

I can see some virtue in using the winter break to look at some issues attached to this legislation. From what I am told by Hon Barry House, committee members will not be here for that consideration. Therefore, it will not work very well. The consideration suggested by Hon Kim Chance will not be possible. If following prorogation the member wants to send the Bill back to the committee again, we will have a drawn out, further look at the School Education Bill.

I can count. There are times that I suspect I will lose a vote - this is one such occasion. Nevertheless, my argument is compelling; in fact, all members should be compelled by the argument that they should be entitled to contribute to every clause of this Bill in the Committee of the Whole. Every member has an interest in education, not just the members of the Public Administration Committee. It is not only about the Education Department. It involves non-government education, pre-school education, how schools are run and the education of our children. It is a much wider subject than public administration. Every member is entitled to express a view on the matter.

Amendment to Motion

Hon N.F. MOORE: In the event that the House agrees with the motion, I move -

To insert after "Public Administration" the following -

and that the committee report to the House not later than Thursday, 20 August 1998

I move this amendment to apply some time limit on this part of the exercise. I hope that the committee might report by the second week of the House's resumption after prorogation so the whole Chamber can have a go at debate. If the committee has an open-ended referral from the House, and the committee hangs on to the Bill forever, I suspect that it will not be passed at all. If referral takes place, members will want to make speeches during the Committee stage; therefore, it will be necessary to suspend standing orders to enable that to happen. This amendment to the motion will avert the potential for the committee to consider this Bill for month after month, after which time members will want to speak to the Committee stage of the Bill, as they are so entitled. In the event that I do not succeed and the Bill is referred to the Standing Committee on Public Administration, at least a time limit will apply to its consideration of the Bill. The committee will report to the House on Thursday, 20 August, which is the second week of the House's sitting in the next session of this Parliament.

[Questions without notice taken.]

HON HELEN HODGSON (North Metropolitan) [5.35 pm]: I wish to make a few comments about the substantive motion also in order that I do not take up the time of the House unnecessarily. First, this is an occasion when the use of the committee system can be a very efficient use of the resources of this House. Basically, it allows a committee to analyse the detail of the legislation and narrow it down to several issues that may or may not be contentious. Despite what has been said about the amount of public debate that has occurred already on this matter, given the experience of watching the debate in the other place on this Bill, it would be far more efficient if we can narrow down the issues to a handful that need to be dealt with on the floor of this place. That is why the operation of the standing order can be used to streamline debate on the non-contentious issues on this piece of legislation.

Hon N.F. Moore: How do you know what is contentious?

Hon HELEN HODGSON: That is one of the things that the committee will determine. Under the new standing orders we have the ability for any number of members to participate in this place. What happens in the Estimates Committee is that this Chamber is occupied by members who come in at various times and ask questions about what they have in mind.

As to whether it is the correct committee for the Bill to be referred to, I remind members of the objects of the legislation that were read in this place today. The legislation makes provision for education in school or by home education; the establishment and operation of government schools; and for parent and community involvement in school affairs. Government schools are publicly funded; they are government agencies within our terms of reference. The registration and funding of non-government schools is clearly within the terms of reference because non-government schools also receive public funding. Registration of community kindergartens is an administrative function; they receive public funding. Administrative responsibility for school education is the responsibility of the Education Department. It is clear that the objects of the Bill fit squarely within the terms of reference of the Standing Committee on Public Administration. The Bill fits within the terms of reference of the committee under Standing Order 3(2).

Finally, I agree that there should be a report-back date; however, 20 August is the Thursday before we rise for a two week recess. I suggest we extend the report-back date by one sitting day, and that would make it 8 September. There would be no practical delay in debating the matter on the floor of the House and this would provide a further two weeks to complete the reporting process.

For that reason, I suggest that the extension of that report backdated to 8 September would assist in the processes of this place without any real delay on the Minister's intentions. I support the referral. I prefer a slightly longer report back period in calendar terms, although not in real terms of the sitting of this place.

HON DERRICK TOMLINSON (East Metropolitan) [5.50 pm]: I agree with those speakers who have described this as an important piece of legislation. I also agree that, because of its importance and complexity, it is an appropriate Bill to be referred to a committee of this House. Furthermore, I agree that there are several committees to which this Bill might be referred. In consideration of standing orders, the House has explored the possibility of referring bills to other than the Standing Committee on Legislation. I draw Hon Kim Chance's attention to paragraph 3(2) of the Standing Committee on Public Administration; a section of the standing orders deliberately imported or incorporated in the terms of reference of the Standing Committee on Public Administration to enable Bills to be referred. In response to Hon Kim Chance's invitation for me to read paragraphs 3(1) and 4(a), I suggest to him that he read paragraph 3(1), the functions of the Standing Committee on Public Administration to inquire into and report to the House on the means of establishing agencies, etc and "agencies" in paragraph 4(a) being an instrumentality of the State Government for particular purposes.

The Education Department is an agency, but if we confined the work of the Standing Committee on Public Administration to paragraph 3(1), all that the committee would be able to do on a very restrictive reading of paragraph 3(1) is consider part 6 of the Bill; that is, the administration of the system of education. It is much more appropriate to consider paragraph 3(2). I will read that paragraph, for the honourable member's erudition, which states in black and white that -

> The functions of the committee are:
>
> (2) to consider and report on any bill referred to it by the House providing for the creation, alteration or abolition of an agency, including abolition or alteration by reason of privatization.

That is a more appropriate paragraph under which referral of this Bill with all its complexity to the Standing Committee on Public Administration should be considered. It could likewise be referred to the Standing Committee on Legislation. Paragraphs 1 and 3 of the standing orders of that committee state -

> 1. There is hereby appointed a standing committee to be known as the *Legislation Committee*.
>
> 3. A Bill originating in either House, other than a Bill which the Council may not amend, may be referred to the committee after its second reading or during any subsequent stage by motion without notice.

If members read almost all the standing orders of this House, it would be possible to say that it is an appropriate standing committee -

Hon Kim Chance: None of which is the equivalent of 4(a).

Hon DERRICK TOMLINSON: - to which this Bill might be referred. I do not believe that is a relevant question. It is important that we recognise that the House has established a committee system for the very purpose of reviewing the detail of legislation. The House has further extended the functions of committees to refer a Bill to any committee which is considered to be appropriate. I agree that in this instance the Standing Committee on Legislation might be an appropriate committee, but so too is the Standing Committee on Public Administration. I do not believe that is a matter for a great deal of debate; either of those committees is an appropriate committee. However, I argue that this is not the appropriate stage to be referring this Bill. I again draw the member's attention to the standing orders relating to the Standing Committee on Legislation. Paragraph 3 states -

> A Bill originating in either House, other than a Bill which the Council may not amend, may be referred to the committee after its second reading or during any subsequent stage by motion without notice.

There is a reason for that of which the House must take note. The reason is, as we all know, that during the second reading debate and on the vote of the second reading, the principle of the Bill is established.

Hon Tom Stephens: Articulated.

Hon DERRICK TOMLINSON: It is articulated in the debate. I will accept that.

Hon Tom Stephens: Articulated by the Minister during his second reading speech, but it is not determined by the House at the conclusion of the Minister's contribution.

Hon DERRICK TOMLINSON: No. I said the second reading debate and after the vote on the second reading.

Hon Tom Stephens: Can you read your quote again from the standing orders? Your quote does not correspond with my memory of that standing order.

Hon DERRICK TOMLINSON: Page 154, Standing Committee on Legislation, paragraph 3 starts with "A".

Hon Tom Stephens: Thank you. The Standing Committee on Legislation.

Hon DERRICK TOMLINSON: The point I am making is - I think the Leader of the Opposition should listen to this - that during the second reading debate and at the conclusion of the debate by a vote of the House, the principle of the Bill is established. It is not established in the second reading speech by the Minister. The second reading speech by the Minister simply enunciates the Government's intention.

Hon Tom Stephens: It just says "after its second reading". The Minister has completed the second reading.

The PRESIDENT: Order! The Minister has moved the second reading.

Hon DERRICK TOMLINSON: I do not think we need to waste our time trying to educate these people. The principle which has always been followed is that after the second reading, the Standing Committee on Legislation

in this instance may deliberate upon matters of detail in the clauses of the Bill. It may not deliberate upon the principle of the Bill. That becomes a conjectural issue because, in reality, members cannot deal with matters of detail without considering the principle and members cannot amend matters of detail without affecting the principle. The general issue is that by the second reading debate the policy or the principle of the Bill is established. The referral to a standing committee is to consider matters of detail. That same provision is not contained in the Standing Committee on Public Administration, and for the benefit of the Leader of the Opposition, page 155(3)(2) states -

> To consider and report on any bill referred to it by the House providing for the creation, alteration or abolition of an agency . . .

Hon Kim Chance: Are you speaking for the motion?

Hon DERRICK TOMLINSON: There is no provision for a referral after the second reading debate has been concluded. It can be referred on a reading of that at any time. I suggest that members who have spoken on this motion consider this: It is important before the committee, if it be the Standing Committee on Public Administration and that seems to be the way in which the debate is going -

Hon Kim Chance: We have already established it cannot go to the Legislation Committee.

Hon DERRICK TOMLINSON: Not at all. All I have established is that it is an inappropriate time; that is what I am arguing.

Hon Kim Chance: Under the standing orders.

Hon DERRICK TOMLINSON: By all means send this to a committee, but at the appropriate time. Whether we send it to the Standing Committee on Legislation or the Standing Committee on Public Administration is irrelevant from my perspective. What is relevant is that before either committee, and in this case the Standing Committee on Public Administration, deliberates on matters of detail, it should at least hear the argument of members of this House. I advise the House that I have formally given notice to my party that I reserve the right to vote against matters of detail in this Bill. I further advise that I received Bill 47-2A at the same time as other members in this House. I have read the Green Bill, have taken part in the public consultation process and have read subsequent drafts of the Bill. This is the first time, however, that I have read 47-2A. In reading it, I have noted that I want to question clauses 23, 24, 38, 62, 63, 64, 65, and 75-84. I have reservations about each of those clauses. I want to cogitate on these matters, I want to hear other member's opinions and I want to debate it. I want to deliberate and make and establish a position. I want members to hear my position.

Sitting suspended from 6.01 to 7.30 pm

Hon DERRICK TOMLINSON: Before the dinner suspension I made the point that some members wish to speak on matters of principle as well as matters of detail. I indicated that I was one of the members looking forward to participating in the second reading debate. My concern is that, if the majority refers the Bill at this stage to a committee, members will not have the opportunity to participate in the second reading debate. I ask Hon Helen Hodgson and members of the Greens (WA) in particular to consider the consequences of that. One of the virtues that I thought the new members brought to the House was a willingness for open discussion and full contemplation of legislation before decisions were made. I applauded the position they took in their initial forays into debate in this place. That was the position then. Members should compare that with the position in which the House is now placed. Members now want to terminate the second reading debate by referring -

Several members interjected.

Hon DERRICK TOMLINSON: The consequence of this action is that we will refer the Bill to a committee before the conclusion of the second reading debate. The committee will then refer back to the House. No doubt the committee will recommend changes. I hope it does, because there are matters of detail that require detailed consideration and some amendment may be justified.

When the committee reports, it is subject to standing orders. Sessional Order No 6(2), headed "Stages of a Bill referred to standing committee", states that where amendments to the Bill are returned to the House -

> . . . the minister or member in charge of the bill may thereupon move *That the amendments recommended by the . . . Committee be agreed to*. If that motion is not agreed to . . . -
>
> (2) In a committee of the whole House on a bill reported from a standing committee:
>
> (a) The Chairman, before putting any question on the bill shall put the question *"That the amendments recommended by the [title] standing committee be read into and deemed part of the bill"*;

The House has amended paragraph (b). However, paragraph (b) in the sessional orders states -

> (b) The question in relation to a clause agreed to by the standing committee without amendment (evidenced by its report) shall be put without debate unless it is proposed to amend such a clause.

Let us consider the consequences of the action of sending this Bill, at this stage, to a standing committee - regardless of which standing committee. The standing committee will report, and the standing committee may - and it is highly likely it will - recommend amendments. Those amendments will then be put, without debate. Even if a decision is made to amend the amendments, the debate on the detail of the amendment is limited to 10 minutes per member. I will be denied an opportunity to debate the principles that I, as a member of this Legislative Council, want to debate in this Bill. I believe they are very important principles. Rather than using the committee system as it was intended in this House to more efficiently deal with matters of detail, the consequences will be to deny debate. Instead of opening debate, the consequences will be to stifle debate.

Where then is the principle the member brought to the House? Where then have those very important issues of openness in the consideration of legislation gone? Members should not fall into the error that they made with the amendments to the Equal Opportunity Act. Members should think of that. What has happened to that Bill? Members opposite accepted a recommendation that it go to a committee. I stood in this House and said that members have been duped, because that Bill effectively was buried. Where is it? Has anyone seen it since?

Hon Helen Hodgson: It will come back here.

Hon DERRICK TOMLINSON: I will tell the member what will happen. Hon Kim Chance has already told us that this House will be prorogued on about 7 August. When the House is prorogued, that Bill will fall off the Notice Paper. If it falls off the Notice Paper, it is within the power of the House to reinstate it. It will then be within the power of the House to refer it again to the committee; but before it can be referred to the committee, the committee must be reinstated. Therefore, around week three, members may see the Bill referred back to the Legislation Committee.

The Bill has been very effectively buried by the strategy of the Australian Labor Party. If members cannot see that, I am very sorry for them. Members should listen to their colleagues in the corridor; they should listen to the way their colleagues are laughing about the way they have been duped.

The PRESIDENT: Order! I should not need to remind Hon Derrick Tomlinson that we are speaking to the amendment to the motion in respect of referral.

Hon DERRICK TOMLINSON: Mr President, you do not need to remind me. I am trying to point out to members that if they follow the strategy of referring the Bill to a committee, effectively they will be denying us an opportunity for debate.

Hon Tom Stephens: Bunkum!

Hon DERRICK TOMLINSON: In denying opportunity for debate, members will fall into the trap of the ALP opposition members -

Hon Tom Stephens: Bunkum!

Hon DERRICK TOMLINSON: - who do not want this Bill to be subject to debate in this House -

Hon Ljiljanna Ravlich: What do you have to hide?

The PRESIDENT: Order! Hon Ljiljanna Ravlich must come to order.

Hon DERRICK TOMLINSON: This is a very important piece of legislation. In the nine years I have been in this place, I would rank this Bill among the most important I have ever dealt with.

Hon Tom Stephens: All the more reason to send it to a committee.

Hon DERRICK TOMLINSON: The standard procedures of this House allow full and open debate at the second reading stage, where all the matters of principle - pro and con - are considered, and a decision to be made to refer the Bill to a committee for consideration of detail. I am disappointed that members will circumvent the second reading debate, put the Bill to a committee for a decision on matters of detail, and then, during the Committee stage, confine debate to those matters of detail.

That is not the way to handle a Bill of this significance. Members opposite are belittling the significance of the Bill by proposing that strategy. It is well and truly within the power of the House - the numbers are there - to refer the

Bill now to the Standing Committee on Public Administration. However, I ask the Greens and the Democrats to think seriously about the consequence of that action, which will be to deny the very democratic processes that they came to this House to so strongly uphold. I oppose the amendment.

Amendment on the Amendment

HON CHRISTINE SHARP (South West) [7.41 pm]: I move -

> That the amendment be amended by deleting "Thursday, 20 August" and substituting "Tuesday, 8 September".

I accept, albeit somewhat reluctantly, the notion of a time limit on the deliberations of the committee on this Bill, because we all agree that this is an important and complex piece of legislation. Nevertheless, given the recess commitments of various members, a deadline of 8 September is perhaps more realistic than 20 August.

This amendment may reflect, as Hon Derrick Tomlinson would like to suggest, a lack of understanding of some of the convoluted tactics that are used in this place, but I am surprised at the vehemence that has been expressed by the Leader of the House and Hon Derrick Tomlinson about the idea of taking this significant and complex Bill to a committee straightaway.

Hon N.F. Moore: Are you a member of the Standing Committee on Public Administration?

Hon CHRISTINE SHARP: No I am not.

Hon N.F. Moore: If you agree to this motion, you will deny yourself the opportunity to debate every clause with which you do not agree.

Hon Tom Stephens: Rubbish! You do not know the standing orders.

The PRESIDENT: Order! Let us not argue about the standing orders.

Hon CHRISTINE SHARP: When I first read the Green Bill during the summer months and realised what an important piece of legislation the Council would have to deal with, it seemed to me pretty obvious that it would be necessary for us to have a fairly long Committee process to deal with the 260 clauses of the Bill. It seemed to me that with the complex party structure of this place, with so many different positions to be put, it made sense at this stage to try to short circuit some of the major arguments and deal with the Bill in a committee comprising people who are committed to and interested in this Bill and who are prepared to put in the time and to do the homework to work out this matter. I think we would all agree that what we want to see at the end of the day, and hopefully by the end of this year, is a really top class education Bill to replace an Act which has been around for many years and is obviously in need of change.

Hon Derrick Tomlinson: Amen to that!

Hon CHRISTINE SHARP: I cannot understand why everyone is so upset at the notion that we get together in a committee. We all agree that it does not matter which committee. The reason that it does not matter which committee is that we have changed the standing orders; so that virtually any committee can be any committee. It depends on the agreement of members of committees and the commitment of members of this Council to do their homework, put their heads together and work out the best possible package, which is a compromise of five different parties and a multiplicity of perspectives.

Hon Derrick Tomlinson: Do you think we should not have a second reading debate?

Hon CHRISTINE SHARP: I cannot understand why members of the Government are of the opinion that this process will not achieve those objectives.

Hon N.F. Moore: You might achieve your objectives, but what about everybody else who is not on the committee?

Hon CHRISTINE SHARP: We will have two possible inputs from other members of the Council who may not be able to be on the committee for whatever reason. The first relates to the new standing order of substitution. Like other members of this Council I have a heavy workload, but I have taken a deep breath and made the commitment that I would like to substitute onto this committee to be involved on behalf of my party in the deliberations on this Bill. I invite other members from all sides of this House, in particular the other side of the Chamber, who have a valuable input to make to make similar arrangements.

Hon Derrick Tomlinson: I would accept that invitation but I also ask you to let me and others have the opportunity for a second reading debate.

Hon Ljiljanna Ravlich: It will come back to the second reading; what a furphy.

Hon CHRISTINE SHARP: My understanding is that if we cannot short circuit all the arguments, and that is almost certain, the Bill will come back to this place and the second reading debate will continue. Obviously, all members will not sit in as substitute members. Therefore, members who have something important to say will have that opportunity at that stage.

Hon Derrick Tomlinson: The report of the committee is discussed in Committee.

Hon CHRISTINE SHARP: We will bring a Bill to the House which has already addressed some of the major arguments on issues which will consume a lot of the time of this Chamber. That is why I am very surprised by the attitude of members opposite, because it seems that it is commonsense. Maybe it is not. It seems that some members who have been around for a long time have the idea that we should take up as much time as possible in this Chamber.

As a new member I have this idea that we should be moving Bills through as fast as possible having done a decent job from all our value perspectives, and different parties and positions. This approach will enable exactly that to occur. We are going to a committee in which the vote will be even. Therefore, it does not quite reflect the voting under certain arrangements in the Council.

Hon Barry House: The intention is that three people will work as a subcommittee.

Hon CHRISTINE SHARP: No. If it is, I know nothing of that.

Hon Kim Chance: Look at the amendment which says 8 September.

Hon Tom Stephens: Have there been subcommittees of the Liberal Party dealing with education?

Hon Barry House: No.

The PRESIDENT: Order!

Hon CHRISTINE SHARP: It seems that members in this place sometimes get a bee in their bonnet and want to argue about God damn everything! We all agree that we want to put our heads together -

Hon Peter Foss: You did not put your head together with us to find out what our views were. You decided you would do this.

Hon CHRISTINE SHARP: I am inviting the Attorney General to put his views. I assume that the Attorney General is a little busy dealing with other affairs and that maybe other members, perhaps competent members of the government backbench, have some valuable contributions to make.

Hon Derrick Tomlinson: Then let us speak.

Hon CHRISTINE SHARP: As a backbench member I invite them to speak. Does the Attorney General hear me?

Hon Derrick Tomlinson: Let us have a second reading debate.

The PRESIDENT: Order! Hon Derrick Tomlinson will come to order.

Hon CHRISTINE SHARP: We will have a second reading debate. There are no cosy deals going on about subcommittees.

Hon N.F. Moore: You are the only one who doesn't know about it.

Hon CHRISTINE SHARP: I am not aware of them. Were that to happen, I assure all members in this Chamber that I would complain about it. I thought this was a good idea; this was putting our heads together -

Hon Peter Foss: On your own.

Hon CHRISTINE SHARP: No, not on our own - representing the people who are prepared to put in the work to come up with the best possible education Act for this State. Therefore, we will require a little longer than the end of the recess. In fact, I think 8 September is a very optimistic time frame. If I am granted a substitute place on the committee, I know it will be fairly difficult to meet that date, given that we are now approaching the recess and prorogation. That time might not be as clear for a member of Parliament as the recess might suggest. However, to meet the concerns of the Leader of the House that this should not be held up, I am prepared to move that 8 September is a suitable deadline to get the Bill back into the House to continue with the second reading stage. I repeat: I have been part of deliberations to suggest that this approach be taken. I think it is a very good approach, and offers members from all sides of this Chamber the opportunity to put their heads together.

When the Bill is brought back, it will have been streamlined to make for better time management in this place. The final processes may be put in place in the Legislative Council, without having the time consuming and extremely longwinded debate that would otherwise ensue. I commend the motion the House.

HON B.M. SCOTT (South Metropolitan) [7.52 pm]: I will speak very briefly about the concern confronting the Chamber and put up a few practical issues. This Bill is very important. Everybody in this House agrees with that. I, for one, have been involved in this Bill and the Hairdressers Registration Repeal Bill and I enlighten Hon Ljiljanna Ravlich that this Bill has had far more public consultation than the Hairdressers Registration Repeal Bill ever had. The Green Bill has been out for consultation. There are a lot of controversial issues, many of which have been ironed out in the Legislative Assembly and through public meetings. Many of us are aware of the major issues.

Hon Ljiljanna Ravlich: There has been very little ironing out, I can assure you.

Hon B.M. SCOTT: Many of us are aware of the controversial issues faced by the public with this Bill. Let us say that we move to send this Bill to the Standing Committee on Public Administration, which meets on a Thursday. Even if it met next week and each week during the school holidays, it would have only five meetings before 20 August, four of which would have only three members in attendance. That is not proper scrutiny and does not give all the members of this House the opportunity to have their say on this major Bill.

I am very surprised by Hon Helen Hodgson, who comes to this House from an educational institution, as I thought she would want to be part of this debate. She will be away for four or five weeks.

I have been through my diary, and the opening of Parliament is on Thursday, 6 August. Therefore, the committee will have five Thursdays on which to meet. The proposition is that we bring in and question major stakeholders in the education sector, but that will not be possible. We will not have the time to do what the House is asking the committee to do; namely, to thoroughly scrutinise this Bill. I would like to undertake that scrutiny; however, the committee is not the proper or appropriate way to deal with such an important Bill. That process would deny most members of this House the opportunity to participate in debate. Every member, even if not directly involved in education, shares a concern about education, which, like health, is a major area in our community.

Passage of Hon Ljiljanna Ravlich's motion would deny this House of Review the opportunity to review a significant Bill which will repeal an Act established back in 1928. At this stage, we have heard nothing formal about committee membership being exchanged, and I am not sure how realistic or probable is that exchange. Therefore, three members would be available to meet four times in that period prior to the first report date of 20 August. They may meet two or three times after that. That will not provide members with an opportunity to canvass the major issues with the stakeholders in education. I am sure the stakeholders would feel let down by such a process. If a two hour meeting were put aside to see one or two witnesses, and the committee reported on what was said, two meetings would be needed.

Also, the Standing Committee on Public Administration has had a problem with lack of continuity of staff. The committee clerk is travelling with another committee. Therefore, we will have no continuity. We could bring in somebody especially to undertake this review, but it would create concerns that somebody new with no experience in reporting to Parliament would be given the job. Those practical issues are important and should be considered.

To deny members the opportunity of a second reading debate on this important Bill before referral to a committee would deny a sense of justice to not only members, but also the community of Western Australia. Education affects almost every family in the State in some way. I support the amendment moved by the Leader of the House, but I oppose the referral motion.

Hon Kim Chance: Before you sit down, regarding the analysis the Committee of the Whole will be able to carry out, it does not have the capacity to bring in a single witness to this Chamber. We are talking about external witnesses attending the standing committee. Only departmental officers attend the Committee of the Whole House to advise the Minister. The process of a committee will enable the capacity to draw in more people, albeit limited, than would be possible with the Committee of the Whole.

Hon B.M. SCOTT: Yes. However, the committee will have only four weeks to undertake that work. If it brings in the early childhood, secondary, primary and parent sectors and the unions -

Hon Kim Chance: That is more than will be provided by the Committee of the Whole.

Hon N.F. Moore: If your committee agrees with a clause, it cannot be debated in the Chamber. Every other member will be denied the opportunity -

Hon Ljiljanna Ravlich: If any member does not like what the committee determines, he or she need only move an amendment.

Hon B.M. SCOTT: Hon Kim Chance has suggested that Parliament has a better opportunity to scrutinise the Bill by allowing more witnesses to come before this committee than would be possible in the Committee of the Whole. However, the process he suggests will deny a range of members the opportunity to hear those witnesses. Many people who will be witnesses have spoken at public meetings, and those of us who are really interested in the School Education Bill have taken time to attend public meetings and public consultations. We are aware of the stakeholders and the issues. However, it does not leave, in a practical sense, proper time for the committee to work through the role Parliament wants it to undertake in this motion tonight.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [7.59 pm]: I support the amendment moved by Hon Christine Sharp. I urge the Australian Labor Party members and the other members of the House to also support this amendment. It is a response to one of the arguments presented tonight. I am moving into new territory by virtue of the changes to the sessional orders - the standing orders as they now are - for the operations of this House. In the process of tackling that, we are coming across fresh situations in relation to many of these issues. In preparation for these fresh situations with which we are faced, the Australian Labor Party has already indicated to Hon Christine Sharp that it would like to provide her with the opportunity of being a substitute member for Hon Cheryl Davenport.

We are also very well aware of the other standing orders with reference to referral to committees. It would be a disgrace if the Leader of the House were to bring on that Bill the day of receipt of the report from that committee.

Hon N.F. Moore: Who said that will happen? I am trying to organise it so that people in this House can have a vote on it.

Hon TOM STEPHENS: That is the only way he can deny members the opportunity to fully debate every clause of this Bill. If he allows a one day gap between receipt of the report and the debate, any member can give notice of an amendment to any clause, and thereby effectively debate any clause whatsoever.

Hon N.F. Moore: What if a member does not want to amend it and just wants to say something on it? A member might be opposed to it, and he still cannot speak on it unless an amendment is moved. The Leader of the Opposition should read the standing orders.

Hon TOM STEPHENS: I understand the standing orders.

Hon N.F. Moore: You do not; you just demonstrated that you do not.

The PRESIDENT: Order! Leader of the House.

Hon TOM STEPHENS: Mr President, I hope you will take the Leader of the House behind the screen later in the night and explain the standing orders to him. The Leader of the House uses his creative powers of visualisation and he will find creative ways of responding -

Hon N.F. Moore: That is not what this place is about. It is about giving people a chance to say what they want to say. We are talking about freedom of speech.

Hon TOM STEPHENS: Only one person in this place can deny the members of this House the opportunity of debating any clause of this Bill, and that is the Leader of the House.

Hon N.F. Moore: It is not. It is in the standing orders. Unless you want to amend it, a member cannot speak -

Hon TOM STEPHENS: Mr President, I say through you to the Leader of the House, that so long as he is prepared to commit to the principles that were argued for and articulated by Hon Christine Sharp then he will know that there is no way of denying any member of the House the opportunity to move an amendment. For instance -

Hon N.F. Moore: Nobody is denying anybody an opportunity to move an amendment; I did not say that at all.

Hon TOM STEPHENS: Or debate.

Hon N.F. Moore: Read sessional order No 6(2)(b).

Hon TOM STEPHENS: Read it to me.

Hon N.F. Moore: It reads: "the question in relation to a clause agreed to by the standing committee without amendment (evidenced by its report) shall be put without debate unless it is proposed to amend such a clause". Any member who does not want to amend it and is simply opposed to it cannot speak, as Hon Helen Hodgson found the other day when she sought to comment on a clause.

Hon TOM STEPHENS: How would the Leader of the House use his great intellectual powers to overcome the difficulty -

Hon Peter Foss: You should not have to do it. You are misusing the system.

Hon TOM STEPHENS: The Attorney General has always had a creative capacity to respond to the challenges of standing orders. Surely he will not be thwarted by the recent invention of the House?

Hon Norman Moore interjected.

Hon TOM STEPHENS: I have only given this momentary consideration and can see the ways that I would have to -

Hon Peter Foss: You should not have to.

Hon TOM STEPHENS: Members will have the opportunity to debate every clause by creative response to that standing order.

Hon N.F. Moore: Why do you have to be creative? You should be able to do it by right.

Point of Order

Hon CHRISTINE SHARP: Mr President, will you indicate what Standing Order No 366 means, especially paragraph (b), where it provides that on the return of the committee report, the tabled report goes to the Committee of the Whole House and the next stage of the Bill continues. Does that mean that if this motion is passed it will go through to the next stage? Would that be the second reading or the Committee stage?

President's Ruling

The PRESIDENT: I understand the point of order; however, it is probably not raised at the appropriate time. Hon Christine Sharp should have at least waited for the member to finish, because it is not a true point of order on what is being said at present. However, the question of whether the second reading debate will be completed has been referred to by a number of members this evening. The standing orders clearly indicate that if this motion is carried and the Bill is referred to the Standing Committee on Public Administration, a report emanating from that committee will be reported to the House. It will lie on the Table of the House because the question that would have been suspended to allow this referral to be made is that the Bill be read a second time. That question must be put at some stage. That means there must be a second reading debate. All I am doing is agreeing with the proposition that I heard Hon Christine Sharp enunciate a few moments ago. If that offers any support to what has been said, clearly that is the interpretation of the standing order.

There will be a second reading debate unless for some miraculous reason the House jumps over its second reading stage; but I doubt that will occur.

Debate Resumed

Hon TOM STEPHENS: I could rest my case.

Hon N.F. Moore: You cannot; it is a different issue.

Hon TOM STEPHENS: Say for instance a member of the House -

Hon N.F. Moore: You cannot debate the Committee stage if you agree to the clauses.

The PRESIDENT: Order! I do not like to interrupt because it is not my position to enter the debate, but there seems to be a lot of discussion on recently adopted standing orders. Much comment has been made about Standing Order No 234A(3). Members apparently are not reading subparagraph (4). It is not much good their referring to their standing orders book because I am not sure theirs is up to date. However, mine is. Paragraph (4) provides that nothing in paragraph 2(b) prevents reference to the provisions of such a clause in the course of debating other clauses where the reference is otherwise relevant.

I raise that because we adopted the standing order only the other day. Clearly some members have not fully understood the import of the standing order. As I am not meant to be part of the debate I invite the Leader of the Opposition to continue.

Hon TOM STEPHENS: I will be brief, although I fear the Attorney General is about to enter the debate, which means the House will not deal with this matter with dispatch. If members opposite are feeling frustrated after the Bill returns from consideration by the Public Administration Committee, at least 12 members on this side of the House - as I am sure can other non-government members - can give tuition on how to utilise the standing orders to guarantee the opportunity to debate and consider any clause of the Bill. Hon Kim Chance is an expert at it.

Hon Kim Chance interjected.

Hon N.F. Moore: What a disgusting thing to insinuate -

Hon Peter Foss interjected.

The PRESIDENT: Order! The Attorney General will come to order. I want one person to speak at a time. I am getting sick and tired of the interjections.

Hon TOM STEPHENS: There are enormous and innumerable ways in which one can respond to the challenges that we must all face by virtue of the standing orders that we have now adopted, which were the old sessional orders. I studied those sessional orders quite closely before I was prepared to agree to them being standing orders. I understood the opportunities which would emerge. They included the opportunity of raising a possible amendment to any clause if members felt that they wanted to raise an issue to test it in debate. Members will see at the moment, for example, the Supplementary Notice Paper includes a motion to delete the clause. A member might very regularly utilise the opportunity of not supporting a particular amendment, so the clause will be passed without division or strong support for whatever has arrived on the Supplementary Notice Paper. There are enormous numbers of possibilities. If people like the Attorney General and Hon Derrick Tomlinson need coaching, I am sure we can provide that coaching.

Hon Peter Foss: That is arrogant.

Hon TOM STEPHENS: If I have developed the trait of arrogance -

Hon Peter Foss: You have always had it.

The PRESIDENT: Order!

Hon TOM STEPHENS: I came in here as a modest and humble man. I have sat opposite the Attorney General for a number of years. If I have developed the trait of arrogance, it has been through some sort of symbiotic relationship that I have developed with the Attorney General. I hope in the natural process of this symbiosis with the Attorney General that he drops dead before I do.

The PRESIDENT: Order!

Hon TOM STEPHENS: I do not believe that I speak in any arrogant way.

Hon Peter Foss: It sounds like it.

Hon TOM STEPHENS: The Attorney General raises a specious argument.

Hon Peter Foss: I am sitting here being lectured by you.

The PRESIDENT: Order! The Attorney General will come to order. If he wants to speak, he will have the opportunity in a moment.

Hon TOM STEPHENS: The present composition of the House has existed for some 12 months. During that time, I have never seen Hon Christine Sharp exasperated so thoroughly in a debate. We all know that she is not arrogant. I might be arrogant by virtue of having been here too long with the Attorney General, but she is not. She has certainly been exasperated by this debate, and well might she be so.

Hon Peter Foss: She will learn that when people make decisions, they are likely to consult others.

The PRESIDENT: Order!

Hon TOM STEPHENS: She is the one person in this House one must identify as being constantly committed to the processes of ensuring that everybody gets the chance to put his or her case. She has quite clearly taken the opportunity of having a more thorough understanding of the processes that are now unleashed before us as a result of the path we are going down. No member will be denied the opportunity to debate any clause. The only person who can deny members that opportunity is the Leader of the House. Only if by some stunt he causes the report of the committee to be dealt with by the House on the same day on which it is received could members be deprived of the opportunity of speaking on any clause in this important Bill. The Labor Party supports the amendment moved by Hon Christine Sharp. I hope that the House will do likewise.

HON PETER FOSS (East Metropolitan - Attorney General) [8.14 pm]: We need perhaps to go back to some of the matters we discussed when we first set up the standing committees of this House. It was not intended that standing committees be used randomly; it was intended to fit them into the general processes of this House and in many ways to supplement and assist what had been done in the parliamentary process over time.

I confess that I have been one of those who on occasions has found it convenient to send Bills to committee when,

if one thought through the principle and the process a little better, it may have been thought to be inappropriate. I have been taken to task on occasions by Hon Derrick Tomlinson for my failure to have proper regard to the process and principle of some of these committees. We need to know what we intend to achieve by this reference and have regard to some of the occasions on which matters should be referred to committees.

In its early days, the Standing Committee on Legislation tried to work out from its experience what Bills should be referred for what purposes and when. If it were not so busy I am sure the Legislation Committee would try to do that again. It is something that members need to think about. What does the House achieve by sending a Bill to a committee? For what sort of reasons might Bills be sent to a committee? An obvious reason is a belief that some issues can be cleared up in the committee easier than in the House.

Hon Ljiljanna Ravlich: That was said in the beginning.

Hon PETER FOSS: I know. Just wait and listen.

Hon Ljiljanna Ravlich: I cannot wait.

Hon Norman Moore interjected.

Hon PETER FOSS: In my time on the Legislation Committee there were occasions when we were sent an entire Bill and all the committee could do was rewrite or recast the Bill. The Bill had to be accepted as it was or be recast. The classic example was the Heritage of Western Australia Bill. It was an abortion of a Bill; it was a dreadful Bill. The committee made a few minor changes but, in the end, said the Bill needed to be totally replaced and a new Bill written. There was nothing the committee could do with the Bill. It really was a waste of time other than putting on record what people were saying about it being a hopeless Bill. We passed the Bill rather than have no protection.

I am concerned about a Bill of this size being referred. Do members really think a committee can effectively duplicate what has already been done by way of consultation? I do not know how many hours have already been spent on public consultation on this Bill but there have been meetings all over the State, and discussion papers. Do members really think this committee will be able to do justice to this reference? Do members think the committee will be able to hear from a sufficient breadth and depth of people to do anything other than delude itself that it has actually learnt something? Committees can do things but they cannot put in the sort of time that a royal commission or even somebody put up to do the job can. I do not know how many people have been employed full time on this consultation but it is a large number.

Hon Christine Sharp: Governments do not necessarily listen.

Hon PETER FOSS: Frankly, this committee is kidding itself if it thinks it will get other than a teensy-weeny slice of the corner of public consultation. The problem the committee will then have is that it may give undue emphasis to the small slice it hears. Something one learns about an inquiry of this nature is that one starts day one knowing very little about the matter. One hears a few witnesses and thinks one knows a bit more about it and has some questions. On day two one hears a few more witnesses and starts to think about the questions one should have asked on day one. Working one's way through, by day seven one thinks if we are going to do it this properly, we should go back to day one and start from the beginning again.

An unfortunate thing about the way we work is that we do not, for instance, have counsel assisting and we do not have somebody to go out and take statements beforehand so that, before the inquiry starts, we have an idea of what people want to cover. All those things make the life of a formal inquiry a lot easier than our inquiries. Our process is fairly limited.

Hon Barry House: In legal terms.

Hon PETER FOSS: Yes, and for good reason too. I think it is a good idea. We should confine ourselves to the things we can do and not try to substitute ourselves for royal commissions, courts of inquiry or public inquiries. We have a limited capacity. When we can do the job and do it well we should do so, but we should not take on things that are more than we can chew.

Hon Kim Chance: What if one of the outcomes of the committee's consideration was to reduce the amendments from 100 to 6?

Hon PETER FOSS: One of the reasons our process provides for these references to take place after the second reading has been passed is that at that stage some of the areas of difference have been outlined and, generally speaking, the policy of the Bill has been set. It may sound trite to say we have set the policy of the Bill. However, as committees, we have struck this question of the policy of the Bill before. It helps if we can say that these matters are now clearly the policy of the Bill. It limits the degree to which we can go galloping off over the horizon. It shows

clearly the areas that need inquiry. Often, after the second reading, rather than referring the whole Bill, particular parts or clauses can be referred; or the Bill can be referred with a request to look at particular clauses. This is one of those debates - I can almost bet on this - where matters of principle from either side of the House will be raised during the second reading debate.

We will be in a far better position to deal with that if we wait until after the second reading and, if anything must be done, limit the report. I am not sure how to deal with these matters because, with reference to a Committee of the Whole House considering a Bill reported from a standing committee with recommended amendments, the standing orders that we passed state -

> (2) In a committee of the whole House on a bill reported from a standing committee with recommended amendments:
>
> (a) the Chairman, before putting any question on the bill shall put the question *"That the amendments recommended by the [title] standing committee be read into and deemed part of the bill";*
>
> (b) the question in relation to a clause agreed to by the standing committee without amendment (evidenced by its report) shall be put, clause 1 excepted, without debate unless it is proposed to amend such a clause.

That refers to a clause agreed to by the standing committee. If certain clauses only are referred to the standing committee, it would be interesting to know what is the effect of that standing order because it will be evidenced by the committee's failure to support the amendment that is agreed to. However, if the clause were not even referred to in the first place, I suspect it may not be covered by that standing order.

Hon Kim Chance: It would not be.

Hon PETER FOSS: I do not know that I would like to ask the President to make a ruling on that at the moment because if it was never referred, it cannot be said to have been agreed to.

Hon Kim Chance: It becomes irrelevant. If it is not reported on by the committee, the standing order in respect of that clause has no effect.

Hon PETER FOSS: There are two ways in which it may be read. One is that the House, by not referring it, agreed to it; or the committee agreed to it. I do not think it deals with it.

Hon Kim Chance: I think you are right; it does not deal with it.

Hon PETER FOSS: There seems to be a lacuna there somewhere. There is one possibility: Those clauses which are not referred to the standing committee go through the Committee of the Whole in the ordinary event. I do not know. However, there is this concern. The whole idea of having this standing order is to try to speed up the processes of the House. If it is not a matter of debate, we should not deal with it.

The Leader of the Opposition said we can get around it. Of course we can get around it; however we do not put a standing order in place for the purpose of getting around it. We put a standing order in place for the purpose, we hope, of observing it. We are getting into some isometric wrestling match if we set up a standing order such as that and blithely say that we can ignore it by a manipulated, artificial amendment.

The next thing is we will have the honourable John Doe as one of the people in the House moving all these amendments for us so that we do not have to worry about missing out on anything. We will have proforma amendments moved by the honourable John Doe who will be a permanent member of this House and never vote but will always move amendments.

Hon Kim Chance: You do not even have to do that and you know it. Just read the next subclause.

Hon N.F. Moore: That does not cover it either.

Hon PETER FOSS: The next subclause does not take us past it.

Hon Kim Chance: Or course it does. It reads -

> (3) If the question in paragraph (2)(a) is agreed to, the relevant clauses are amended accordingly.

It follows that if they are not agreed to, they are not amended, and they become debatable. In itself, that is a debatable matter.

Hon PETER FOSS: I do not think it does follow, if we move an amendment to that.

Hon Kim Chance: No, you do not have to move an amendment. It reads, "If the question in (2)(a) is agreed to". What if it is not agreed to?

Hon PETER FOSS: They are not amended.

Hon Kim Chance: They are not amended, exactly. Then another amendment can be moved or it can be discussed in any other way.

Hon PETER FOSS: We could move another amendment, but I do not think we could discuss it.

Hon Kim Chance: I think we had better clear that up because my reading of it is that that is the way you could do it.

Hon PETER FOSS: It does not say that.

Hon Kim Chance: If the question in paragraph (2) is not agreed to, (2)(a) becomes inoperative.

Hon PETER FOSS: Paragraph (2)(b) states -

> the question in relation to a clause agreed to by the standing committee without amendment . . . shall be put . . . without debate . . .

It does not say anything about the ones that are amended by the committee.

Hon N.F. Moore: If you agree to it, that is the end of the debate. They cannot even argue against it.

Hon Kim Chance: It says "shall be put without debate". The point is, if the debate is not agreed to; that is the question.

Hon PETER FOSS: The point I am trying to make is this: We have set up a process which is intended to restrict debate; not for silly reasons, for good reasons. I do not think we should have instantly, within minutes of having brought in the standing orders of the House, the Leader of the Opposition suggesting how to get round it; in other words, saying "Well, of course we put the standing orders in there. However, it means nothing because you can get round it." We can get round it, but we should not have to. Either the standing order is wrong because we instantly get round it by moving artificial amendments -

Hon Kim Chance: I think you put your finger on it.

Hon PETER FOSS: If the standing order is right, we should try to observe what it intends to achieve. I do not know which is correct, but they are of equal possibility. I am concerned about the suggestion that that is the answer to what we need to do in this situation. There are concerns that members wish to discuss matters of principle and they believe it is one of those Bills which is appropriate for a Committee of the Whole. Frankly, I do not know. When I see the size of the Bill and when I know the interest it generates, I think it is appropriate. There are topics in this House about which everyone knows and wants to talk. The classic one is the Dog Act. All members know about the Dog Act, so everyone talks about the Dog Act.

Hon Kim Chance: Sheep lice eradication.

Hon PETER FOSS: I remember when we had an urgency motion about the Australian Broadcasting Corporation removing the fruit and vegetable report. Every member had a fruit or vegie person in his or her electorate - I am not even certain the President did not leave the Chair to make a speech. It was of such interest that everyone spoke. We all agreed that the ABC should not take the fruit and vegie report off the air.

Hon Bob Thomas: My motion was that the ABC was going to take the fruit and vegetable report off the "Country Hour".

Hon PETER FOSS: We all spoke. I do not think there was a single member of this House who did not speak on that motion and say that he deplored the move by the ABC to withdraw the report.

Hon Ken Travers: Aren't we glad things have changed?

Hon PETER FOSS: I am prepared to bet that a few members feel qualified to talk on education and that the number of members will exceed the number of people who will be around to be members of this committee over the period of time in which it will be dealt with. I have this feeling in my bones that if we pass this motion, we will be fighting the consequences of it from now until eternity. It is one of those Bills that will attract a lot of thoughtful debate during the second reading stage and it is one which members will want to take through the Committee stage in considerable detail.

I query the decision to send it to the Standing Committee on Public Administration. When I was a member of the Standing Committee on Legislation, we did not work out instantly how to go through a Bill. It took a while to work out the best way to handle legislation. It is not simple and Hon Derrick Tomlinson has had more experience of this than anybody else over the years.

Hon Derrick Tomlinson: I prefer to forget it.

Hon PETER FOSS: It is not easy. It is not just a matter of the committees knowing instantly how to handle it. A learning process is involved and I prefer that it go to the Standing Committee on Legislation rather than to the Standing Committee on Public Administration. I do not know the motivation behind that decision, but if this must go to any committee, it should be the Standing Committee on Legislation. I query whether we will achieve anything. A thorough job must be done on this Bill and I do not think any committee has the resources or the time to do it. A total reference like this is beyond the capacity of a committee.

Hon Christine Sharp: What shall we do then?

Hon PETER FOSS: We will have to go to the second reading speech because we should hear what are the issues. Before going to a committee, we must have some guidance from this House as to where we should be operating. If members think they will handle the entire Bill, they are kidding themselves. The committee cannot take on a role already carried out by government.

I know members want to participate, but I do not know whether they have been through public consultation on a Bill. Some Bills did not get through this House because there was so much public consultation. The Mental Health Act is a classic example. It was examined, sent out for public consultation and returned with proposed changes. By the time the Bill was introduced, Parliament was prorogued. It then went out to public consultation again.

Hon Derrick Tomlinson: It took 13 years to get it through.

Hon PETER FOSS: In the end the then Minister gave up. He knew that still more changes needed to be made, but he wanted something to be passed so we would have modern legislation. Eventually it was decided to stop consultation and consult on the Act once it was proclaimed. Public consultation on a Bill that will have such wide ramifications and interest will be a massive task. The committee will be able only to scratch around edges.

I do not know what members will achieve as a result of extensive public consultation. They will be able to talk to the various people who are still yelling, and that is not a bad idea, because they need a final opportunity for consultation. I suspect some of them are not capable of being satisfied, because often if people can be satisfied before the legislation is introduced they are. Governments do not ignore people's wishes if they can introduce legislation that does not create problems. They try their best to get something which is consistent with the principle behind the Bill and which is acceptable to the public. What is left over at the end is often irreconcilable.

Hon Kim Chance: This is more than the Committee of the Whole can do.

Hon Christine Sharp: It should also be acceptable to this Council.

Hon PETER FOSS: I agree. What is acceptable to the Council will probably have to be worked out in this place. I do not know that having a committee of six members will necessarily deliver something acceptable to the Council.

I will raise one small point with which we have had a problem. It is important that before such a committee suggests amendments, it consult with the Minister. On occasion committees have consulted and come to a point of view, but have not spoken to the relevant Minister, who is probably most familiar with the topic.

Hon Christine Sharp: Sure.

Hon PETER FOSS: The member might say, "Sure." However, I have seen many examples of such Bills not going back to the Minister. That is important because the Minister has been through all the arguments. The arguments put to the committee will have been raised with and considered by the Minister.

Hon Derrick Tomlinson: The Minister is in the other House and he can appear before the committee only with the permission of the House.

Hon PETER FOSS: He will not get that. We are fortunate in that the Leader of the House, who is handling the Bill, has been Minister for Education and is therefore in a better position than most representative Ministers to do so. It is probably less of a problem for Hon Norman Moore than for other Ministers.

I have heard Hon Kim Chance say it allows people to give evidence. However, only a fraction will appear. The ideal time to use such a committee is when we have picked up a few clauses that need specific examination rather than the whole Bill. Considering the Bill in its entirety will not bring us closer together. I have not followed the debate, but

I believe that certain clauses are contentious. We should go through the second reading speech, pick out the clauses that are a problem and concentrate on them. Members are kidding themselves if they believe they will achieve anything by trying to consider the whole Bill.

Hon Ljiljanna Ravlich: The committee will decide.

Hon PETER FOSS: Hon Christine Sharp accused us of being unwilling to put our heads together, and I was upset about that because we are always lectured about how we sometimes fail to speak to everyone in the House; that we are not used to speaking to the Opposition, but we must speak to members opposite to reach an agreement. However, in this case, members opposite did not consult the Minister nor Hon Derrick Tomlinson, who has an interest in the matter -

Hon Ljiljanna Ravlich: The Minister was advised ages ago.

Hon PETER FOSS: Yes. He was told. He was not asked whether he had any objections or whether he thought there was a better way to do it. He was just told that this would be done.

Hon Kim Chance justified himself because this is on tomorrow's agenda for the Public Administration Committee. However, Hon Christine Sharp might appreciate why we felt perhaps she was not practising what she preaches. In this case, so much for consultation! It was an ultimatum to the Minister; there was no consultation with Hon Derrick Tomlinson, who has an interest in education and perhaps wanted to speak on it. Perhaps now Hon Christine Sharp knows what it is like: Sometimes when we make decisions, we feel we make them for valid reasons, and have taken into account the proper considerations; but we may have forgotten the essential first step, which is to speak to the people concerned.

It is worth raising that point, because the member may have learnt that when one becomes a member of Parliament - particularly a member of the Government - life is all about making decisions, and there is a limit to the number of people one can consult; and that sometimes a person gets it wrong. In this case, the member may have got it wrong by failing to consult Hon Norman Moore and Hon Derrick Tomlinson -

Hon Derrick Tomlinson: Or Hon Barbara Scott, or any other member!

Hon PETER FOSS: If the member wants us to put our heads together and consult, she should remember that some of those members may be potential members of the committee, and she should have asked them about their timetables.

Hon Christine Sharp: It may have had something to do with the fact that some time before midnight we will start a six week recess.

Hon N.F. Moore: That prospect is becoming less and less likely as the night goes on.

Hon PETER FOSS: I know exactly how Hon Christine Sharp feels. Having made a decision in haste, and under pressure, and then being criticised for those decisions, I understand her remarks. I have full sympathy for her; but that does not alter the fact that when asking people to cooperate it is not a good start to deliver what appears to be an ultimatum. She can understand why we feel it is an ultimatum -

Hon Christine Sharp: Would you rather we had this debate in the middle of August?

The PRESIDENT: Order! Members should not delay the Attorney General.

Hon PETER FOSS: If we want this Bill to gain cross-party support, first, we should think about whether it is appropriate to refer this Bill to a committee. From my experience on the Legislation Committee, and as a Minister with legislation going to committees, I have severe doubts about whether this is a suitable Bill to be referred in toto. Secondly, the Bill has already received massive public input. We cannot duplicate that input, because it is not very sensible to do so, nor do we have the resources for that. We must be more targeted in what we believe should be given that referral. Thirdly, referral of this Bill to a committee will deprive the House of the capacity to go through the Bill as a group. A large number of people will feel deprived unless they have the capacity to participate in debate on this Bill.

This referral is a premature move. Members should allow the matter to go on, and if, at the end of the second reading stage, they believe that certain clauses should be referred to a committee, that decision can be made at that stage. We have not stated clearly what we want to achieve. I understand members' believing that they have not had much time to think about it, and that is when we make bad decisions. I confess that, at times, I have done that.

Sometimes we need to make a sudden decision on the floor of the House, and we end up doing something that we would not have decided to do had we had more time to think it through. After hearing the debate, my feeling is that

we are moving a bit precipitously. I suggest that members wait until after we have had the second reading debate and then look at particular clauses. I recommend referral to the Standing Committee on Legislation, because of its experience in this area, rather than the Standing Committee on Public Administration. However, members might have other reasons for preferring the Public Administration Committee.

HON LJILJANNA RAVLICH (East Metropolitan) [8.40 pm]: Mr President -

The PRESIDENT: Order! Hon Ljiljanna Ravlich knows that she is restricted very much to the amendment on the amendment and to discussing why "20 August" should be deleted with a view to substituting "8 September".

Hon LJILJANNA RAVLICH: Thank you, Mr President. I support the amendment. I have heard some very negative things from some very negative people. We are about to go into recess. The amendment moved by Hon Norman Moore, which was for the committee to report by 20 August, would leave very little time for that committee to meet and consider the Bill. Therefore, it was suggested that an amendment be moved to extend the time frame until 8 September. After the recess concludes on 10 August, we will have a two week parliamentary session, and we will then have another two week recess. It is hoped that the committee can do some productive work during that time. The committee is well aware of the magnitude of its task. Obviously in a perfect world, the committee would report even later than 8 September.

However, I recognise that the Government has demonstrated some goodwill in accepting that this motion was likely to be passed; and that in response to that motion, the Leader of the House wanted to limit the time frame for reporting rather than leave it wide open. We have come part way towards accepting the amendment to the amendment moved by Hon Christine Sharp for a reporting date of 8 September. It will stretch the resources of the committee and the efforts of the people on that committee, but I believe those people will make an honest attempt to work within that time frame.

HON KEN TRAVERS (North Metropolitan) [8.43 pm]: I support the motion and the amendment moved by Hon Christine Sharp. I have listened intently to the debate so far. I am a fairly new member of this place, and although I realise that we are dealing with new standing orders, I am pretty much still coming to terms with the standing orders in general. I felt very much during the speech of the Attorney General that in this place members who have the numbers get to tell everyone what to do, and members who do not have the numbers must sit and listen. That has certainly been my experience in this place. I was listening intently to the Attorney General. That is probably the case and, sometimes, it is unfortunate.

Hon Barry House: You have had the best part of it since you have been here.

Hon KEN TRAVERS: My colleagues who have been here longer than I have said that we have won a lot more votes than they did and a lot more than our colleagues in the other place. It is a bit like Mark Taylor when he became captain of the Australian cricket team.

The debate has raised two issues that go to the heart of the matter. One is the nature of the consultation process in this Council. That should be clearly distinguished from any consultation process that is adopted by the Government. I would like to see that process enhanced, and members have commented on the attempt to use the committee system to a greater degree. The Senate is a similar House of Review to this place and it has used its committee process to a far greater degree to handle legislation.

Hon Derrick Tomlinson: The Senate committees sit while the House is sitting.

Hon KEN TRAVERS: This debate raises a number of issues about the efficiency with which we operate, and that is under review at the moment. This motion gives us an opportunity to move down that path. I accept that in a perfect world there may be a better way of doing this, and I hope we will continue to aim for that. One of the issues that is raised about how this Council conducts its community consultation process is the importance of differentiating between the Council's consultation and the Government's consultation on legislation.

We need far greater resources to assist the committees. I was interested in the comments of the Attorney General that a royal commission would have a counsel assisting to help put the case together. Even with my limited experience in the committee system I have wondered whether that would not be a bad idea. On a Bill like this, specialist researchers and counsel assisting the committee would be a better way to go. Nonetheless, we must live with the existing system, albeit an inefficient system. It has been novel to hear the way in which the Government in recent times has bashed wharfies for a lack of productivity, yet this is the most archaic place with some of the most restrictive and inefficient work practices that I have ever seen.

I raise that in the context of this debate for a simple reason. We have an option. We can knock off the amendment and the motion that has been moved tonight. We can walk out of this place and go back to our electorates and for the next three months this Bill can sit on the Notice Paper. I am sure that some of the more diligent members in this

place will continue to talk to the community about this legislation. However, they would do that as individual members, not as a collective of the Council or the Parliament. It may be that the comments made by the Attorney General and others in this debate have some merit, and we could do nothing.

The second option is to instruct a committee of this Council to commence that consultation process. I hope that, contrary to the concerns raised by the Attorney General, the outcome of that process will be, at least, to narrow the issues that we address when we come back into this place. As Hon Kim Chance mentioned by way of interjection, we could see 100-odd pages of amendments that were dealt with in the lower House significantly reduced. If that were the case it would be an efficient and effective use of the time set in Hon Christine Sharp's amendments. It would also allow a number of key interest groups to put to this Parliament their concerns on this legislation. I, for one, would take their contributions to the committee and I would consider strongly the report of the committee on those issues when I looked at the Bill again, before the next stages of debate in this place. Referring the Bill to a committee would have some significant benefits for all of us. It would make this place far more efficient. I would hate to see us not start the consultation process.

The Attorney General spoke about his concerns relating to the involvement of the Minister for Education in this legislation. Surely the Minister for Education is one of the keenest to see the process commenced as soon as possible. Some time ago, when the Green Bill was first produced, he seemed very keen to have the legislation in place by the commencement of the 1999 school year. My gut feeling is that if we do not narrow the debate, when we come back to this place we will have 34 speeches on the School Education Bill. I will be able to give a very long, detailed speech about the ills of the education system in the outer northern suburbs, the overcrowding in the schools in Clarkson and Merriwa, the lack of resources -

Hon E.R.J. Dermer: The abolition of first-class schools that are doing a good job.

Hon KEN TRAVERS: Yes, we could focus on those doing a good job in Aboriginal education. We could go through all those issues contained in the Bill. Hopefully, by sending it to a committee, the issues could be narrowed down, leaving only the core issues to be debated in this place. I could talk about the comments by the member for Wanneroo. He says that people in the northern suburbs cannot wait to pay a compulsory fee.

Hon Derrick Tomlinson: That is a very important issue to consider.

Hon KEN TRAVERS: I agree.

Hon Derrick Tomlinson: Why are you making such levity with it?

Hon KEN TRAVERS: I am not the one making levity with it. I made a very serious comment.

Hon Derrick Tomlinson: I sincerely hope we will be given the opportunity to debate those matters seriously.

Hon KEN TRAVERS: Members will be. I hope the committee will bring back some well researched advice to this Parliament on that issue, which has involved community consultation, so we do not get the nonsense I heard from the member for Wanneroo in the other place during the debate on this Bill. I have heard some fairly outrageous comments by that person, but his interjections on the Leader of the Opposition -

The PRESIDENT: Order! We are not here to discuss the Bill in its present form, but to determine whether the Bill should be referred to a committee.

Hon KEN TRAVERS: I am sorry; I was lead astray by Hon Derrick Tomlinson. I should know better. I will confine myself to the issue of referring the Bill to the committee. As I was saying, hopefully the committee will refine the Bill to a few issues following a proper consultation process. Surely it is not consultation with just the Attorney General and Leader of the House representing the Minister for Education, but also the shadow Minister and key spokespersons for the minor parties involved in the debate.

Hon Peter Foss: Before you finish your report, slight consideration might be given to not going back to the Minister with what the committee thinks are the recommendations, and to see how they are likely to be received by government. That is an important final step.

Hon KEN TRAVERS: The fact that the School Education Bill seeks to repeal legislation from 1928 is testimony to the need for wide consultation. This legislation will extend well into the future. In a similar vein to the points raised by the Attorney General, I hope the committee will talk to the shadow Minister for Education. I suspect that many Ministers for Education in the future will deal with this legislation. I suspect that Hon Ljiljanna Ravlich will be a Minister for Education at some time in the future and -

Hon Peter Foss: You should keep it quiet if you want her to be the Minister.

Several members interjected.

Hon Ljiljanna Ravlich: I want to be the Attorney General!

Hon Greg Smith: You will have to be the leader for that to happen.

Hon KEN TRAVERS: Hon Ljiljanna Ravlich is not arrogant enough to be the Attorney General.

Hon Peter Foss: She does pretty well.

Hon KEN TRAVERS: It is the company she is keeping.

The PRESIDENT: Order! Let us return to the debate.

Hon N.F. Moore: There must be a standing order to save us from this, Mr President.

The PRESIDENT: There is - it is to do with repetition. However, Hon Ken Travers has had only 10 minutes.

Hon KEN TRAVERS: Reference was made in debate to the number of committee members who would be absent from the consideration of this Bill. One of the positive reforms made in this place is the opportunity to appoint substitute committee members. Therefore, the replacement option will be provided to members. As parliamentary business urgently calls some members overseas, other members could adequately substitute for them.

Also, I hope that necessary resources will be found for this committee. This is a constant problem for committees. I urge a bipartisan approach so that the referral of this Bill to the committee will set an example for adequate resource provision. As I responded to the Attorney General, it would be a positive move to see more resources directed to assist the committee members in their important task. I support the motion and its amendment.

Amendment on the amendment put and passed.

Amendment, as amended, put and passed.

Motion, as Amended

Question put and a division taken with the following result -

Ayes (14)

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

Noes (13)

Hon E.J. Charlton	Hon Peter Foss	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon M.J. Criddle	Hon Ray Halligan	Hon B.M. Scott	Hon Muriel Patterson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Greg Smith	*(Teller)*
Hon Max Evans	Hon N.F. Moore		

Pairs

Hon N.D. Griffiths	Hon Simon O'Brien
Hon Tom Helm	Hon W.N. Stretch
Hon Bob Thomas	Hon Barry House

Question thus passed.

SITTINGS OF THE HOUSE - EXTENDED AFTER 10.00 PM

Tuesday, 30 June

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.01 pm]: I move -

That the House continue to sit beyond 10.00 pm.

Question put and a division taken with the following result -

Ayes (13)

Hon E.J. Charlton	Hon Peter Foss	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon M.J. Criddle	Hon Ray Halligan	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Greg Smith	
Hon Max Evans	Hon N.F. Moore		

Noes (14)

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

Pairs

Hon W.N. Stretch	Hon Tom Helm
Hon Barry House	Hon Bob Thomas
Hon Simon O'Brien	Hon N.D. Griffiths

Question thus negatived.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL

Assembly's Message

Message from the Assembly notifying that it had disagreed to amendments Nos 1 and 2 and disagreed to amendment No 3 and substituted a new amendment, now considered.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Amendments Nos 1 and 2 made by the Council, to which amendments the Assembly had disagreed, were as follows -

No 1.

Clause 13 - To delete the clause.

The Assembly's reason for disagreeing to the Council's amendment was as follows -

This amendment is disagreed to as entitlement to workers' compensation benefits are determined on the basis of a medical practitioner determining the worker's "incapacity" for work. The issue of "wholly or partially recovered" does not relate to the ability of a worker to return to employment. The words"total or partial capacity for work" protect both the worker from further injury if "recovered" but not fit for work and the employer in employing a worker beyond his capacity.

No 2.

Clause 22 - To delete the clause.

The Assembly's reason for disagreeing to the Council's amendment was as follows -

This amendment is disagreed to as the current Act wording provides no discretion for the dispute resolution body on whether a medical dispute is or is not referred to a Medical Panel. Given some medical disputes could be minor in nature this discretion is essential to ensure delays in resolution do not disadvantage either the injured worker or employer. Further, this clause includes an ability for the Medical Panel to determine a worker's "capacity for work" for the same reasons as set out in response to amendment 1.

Amendment No 3 made by the Council, to which amendment the Assembly had disagreed and substituted a new amendment, was as follows -

No 3.

Clause 32 - To delete the clause.

The Assembly's reason for disagreeing to the Council's amendment was as follows -

This amendment is disagreed to because of the serious impact currently occurring to the financial viability of the entire workers' compensation system and in so doing the Legislative Assembly has agreed to the substitution of the following -

Clause 32

Page 19, lines 20 to 25 and page 20, lines 1 to 7 - To delete the lines and substitute the following lines -

" **32.** (1) Section 93A of the principal Act is amended by deleting the definition of "future pecuniary loss".

(2) Section 93D (2) of the principal Act is repealed and the following subsections are substituted -

" (2) A disability is a serious disability if, and only if, the degree of disability would, if assessed as prescribed in subsection (3), be 30% or more.

(2a) In assessing the degree of disability of a worker under subsection (3), no regard is to be had to any mental ailment, disorder, defect, morbid condition or symptom of the worker that arises, recurs or is aggravated or accelerated as a consequence of, or secondary to, a physical disability of the worker. ".

(3) Section 93D (3) of the principal Act is amended by deleting "For the purposes of subsection (2)(a)" and substituting the following -

" Subject to subsection (2a), for the purposes of subsection (2) ".

(4) Section 93D (5) of the principal Act is amended -

(a) by inserting "or" after paragraph (a);

(b) in paragraph (b) by deleting "; or" and substituting a full stop; and

(c) by deleting paragraph (c). ".

Page 20, line 8 - To delete "(1) and (2)" and substitute the following -

" (1), (2), (3) and (4) ".

".".

The clauses remove the current alternative access of workers, who do not meet the serious disability threshold, to Common Law and are essential to save the workers' compensation system in this State from total financial collapse, a situation which would seriously impact on both employers and injured workers for whom the system is designed.

Points of Order

Hon HELEN HODGSON: Is amendment No 3 incorporated in the message we received today in order? As the Bill was originally introduced and read into both Houses, in the second reading speech, it examined the issue of pecuniary loss threshold for entry into common law and referred back to the Government's 1993 legislation. It was amending access to the definition of pecuniary loss. It was an amendment. The message before the Committee goes beyond the original second reading speech on two grounds:

First, it seeks to delete access where it was intended to clarify that. Second, it goes beyond the issue of the second gateway, as we have come to know it, which is the pecuniary loss threshold, and addresses the 30 per cent gateway and seeks to impose a new criterion which has not been considered at any stage prior to the message received in this place today. That is beyond the intention of the original Bill. It is also beyond the decision of this place in the second reading debate, which was to support the Bill in principle. This is new material. For those reasons I ask the Chairman to rule whether this amendment is in order.

Hon TOM STEPHENS: I support the issue raised by Hon Helen Hodgson. The Chairman should also consider that in recent times consideration has been given to the issue of the "same question". The Committee has made a decision on the issues contained in the message from the Legislative Assembly; that is, amendments Nos 1 and 2. Although I confess that that argument may not be as strong as the argument put by Hon Helen Hodgson, nonetheless it is an opportunity for you, as Chairman of Committees, to consider both issues at this time.

Hon PETER FOSS: I do not think that I need refer to the second point of order other than to say why it is absurd.

It is quite clearly the case that when we have a message from the other House disagreeing, there is a rehashing of the point that was decided in this Chamber. That must be the basis on which we get something referred back to us. That is the most absurd point of order I have heard.

The other point of order is interesting. It could be argued that it was a departure of the principle of the Bill to reinsert some limitation on it. It could probably be argued that it is against the principle of the Bill to have taken it out in the first instance. What the other House has sought to do is restore some semblance of the original shape of the Bill but in different words from those previously put up, in the hope that it may be acceptable to this Chamber. It is not only within the principle of the Bill but, if anything, it is much closer to the principle of the Bill when it came into this Chamber and was agreed to at the second reading stage. I do not think there is any point in that point of order either.

The CHAIRMAN: I will leave the Chair until the ringing of the bells to briefly consider the matters raised in the two points of order.

Sitting suspended from 9.11 to 9.29 pm

Chairman's Ruling

The CHAIRMAN: Following informed discussion and extensive consultation on the point of order raised by the Leader of the Opposition, I rule that it is not the same question and there is no point of order.

In respect of the point of order raised by Hon Helen Hodgson, I rule that proposed new clause 32, particularly in relation to subclause (2a), is in order on the basis that it is within the purview of the Bill as outlined in the second reading speech and that new clause 32 leaves in subclause (3), it still relates to section 93D and it is in order that this proposal be considered. It is a reduction of criterion but it is legitimate that the Committee consider it, noting that the Assembly has agreed to the removal of the differentiation between future pecuniary loss and future loss of earnings. We will now entertain a substantive motion on the message.

Committee Resumed

Hon PETER FOSS: I move -

> That the Council not insist on its amendments and that it agree to the further amendment proposed to clause 32.

Members are familiar with the issues involved because they were debated at some length during the course of the Bill's passing this House.

Point of Order

Hon TOM STEPHENS: I am regularly told that a motion must be in writing. Is that possible at this stage? I anticipate wanting to amend the Minister's motion. If it were convenient to have something in writing, I would appreciate that.

The CHAIRMAN: We will circulate something in writing while the debate is in progress. The motion is straightforward.

Hon TOM STEPHENS: If a member wanted to succeed in referring this message for the consideration of a standing committee, would the Committee require the defeat of the Attorney General's motion with a view then to introducing a subsequent motion, or would it be necessary to amend the Attorney General's motion?

Chairman's Ruling

The CHAIRMAN: At this stage, I cannot entertain a referral motion. That can be done only by the House, not by a Committee of the Whole House. Therefore, it cannot be done at this stage.

Hon TOM STEPHENS: In order to achieve the possible result that I have outlined, the motion would be that the Committee do now report progress with a view to the House then referring the motion to a standing committee. Would that be the motion that I would need to move at some time during Committee consideration?

The CHAIRMAN: To give the member the opportunity to move along the lines he suggests he would need to move that I do report progress, and that we seek leave to sit again.

Committee Resumed

Hon PETER FOSS: Each proposal in the message is accompanied by the reasons for the amendment. I draw attention to amendments Nos 1 and 2, about which the message is self-explanatory. Amendment No 3 requires more explanation. I have moved that the Committee agree to that amendment. During debate I specifically made reference

to the problems relating to the second gateway. The second gateway was intended to be an exception to the general principle of the Bill, which was to try to substitute wherever possible - except in extraordinary cases - a no fault system of liability in workers' compensation. That was to have the effect of increasing the amount paid by way of weekly benefits to injured workers, and of increasing the second schedule payment. In other words, it is to make the no fault system more desirable and remunerative, and to have the fault system available for extraordinary cases.

In some places in Australia, common law recovery has been totally removed. Other places have a proposal similar to our first gate, with the percentage disability being the basis. The second gateway was probably unique to Western Australia and came about because of an intent to provide for peculiar examples where a small disability may lead to a massive financial loss. The classic example was a concert pianist who lost the tip of a little finger or a neurosurgeon who perhaps suffered a cut tendon in a hand. Under those circumstances, it was seen that the percentages applicable to the person's disability were very small but, on the other hand, the potential for common law liability was very large.

It is one of those wonderful arguments that has a certain charm to it when raised: What is the situation if a concert pianist or a neurosurgeon is so injured? I am sure that the Chamber will be pleased to know that since the Act has been in force no concert pianist or neurosurgeon has suffered such an injury, and it must be a great relief to us all to know that even though we had covered that situation, it did not need to be. As far as I am aware there has been no case of even an analogous situation of someone in an equally sensitive occupation suffering a minor injury and causing a disability which has led to disproportionate damages to the person involved.

Hon Kim Chance: Do not tell the Premier; he will take credit for it!

Hon PETER FOSS: The new system was intended to allow employers to pay a proper amount of compensation to their employees, and to avoid the significant legal costs and the delay caused by a fault system, and therefore to put the whole system on a more rational basis. Unfortunately, that has not occurred. It was expected that the number and amount of common law claims would decrease, and that common law claims would go through the first gateway rather than the second gateway, the second gateway being for extraordinary cases. However, there has been a significant increase in common law claims, most of which have gone through the second gateway. In part, this has been due to the way in which it has been interpreted by the courts. We always find in this Parliament that although we think we know what it means and we may even agree that we know what it means, that is not necessarily the way it works out when it gets into the courts. The ability to bring such actions is of intense interest to the legal profession.

The intention was to increase the weekly benefit entitlement, to increase access to second schedule payments, and to reduce common law access to only those persons with a serious disability. The outcome of the change has been a 40 per cent increase in weekly benefits paid to injured workers from 1993 to 1997. We can all take satisfaction that we have got that part right and workers have had greater availability to no fault direct compensation under the weekly benefits. There has also been a 46 per cent increase in second schedule payments during this period. Again, we can take satisfaction from that. I have been an insurance company's lawyer, and we always believed it was better to have a good system of workers' compensation because we could get matters settled more quickly and we did not get the protracted litigation that came from a system where people cut back the benefits. I have been through that regime - I must admit it is normally conservative Governments that have cut back workers' compensation - and in the end, it has not benefitted anyone, because the net result has been a more litigious system, and that is not good for the employer-employee relationship.

The problem is that there has been a 26 per cent increase in common law costs. Therefore, although the change has delivered on the first two objectives, it has not delivered on the third, because, rather than a significant reduction in common law costs, we have had a 26 per cent cost escalation through the second gateway. This has had a significant impact, because the changes to workers' compensation premiums were based on a decrease, whereas there has been a significant increase. A correction will need to be made, and the result is that we shortly expect a major increase in the premiums that will be charged to employers.

Hon Kim Chance: Is there a reason for the increase in the civil law claims of 26 per cent?

Hon E.J. Charlton: Yes - people from the Attorney General's fraternity taking advantage of an opportunity, and people who have no justification going for it.

Hon PETER FOSS: Did the Minister for Transport answer that?

Hon E.J. Charlton: I gave members my opinion.

The CHAIRMAN: Thank you, Minister for Transport.

Hon PETER FOSS: The other reason that this matter needs to progress fairly quickly is that if the second gateway were seriously limited, fewer people would be keen to get in before the gate was shut. I table a document which indicates the number of section 93D applications to the District Court. Members will see from this that there has been

a significant increase - 148 in 1994; 402 in 1995; 837 in 1996; 1 230 in 1997; and to date this year, 753. If that is extended to the end of the year at the same rate there will be 1 807. That may not even be correct, because on Thursday, 25 June there were 47 applications; on Friday, 26 June, there were 23; and on Monday, 29 June there were 48. There have been 118 applications in the past three days. It is an indication that the legal profession is getting in rapidly and making applications. I table that document.

[See paper No 1758.]

Hon PETER FOSS: Another table which may be of assistance to members is a comparative analysis of the same period between 1996 and 1997 and 1997 and 1998. It is not a complete year; it is a nine month comparison on the figures that are available. It shows the amount by weekly payments, redemptions, specific injuries in the second schedule, fatalities, the amount paid for medical practitioners and specialists, hospital expenses, all other treatment, occasional rehabilitation, miscellaneous, legal expenses and common law claims. Members will see that the two major elements are weekly payments and common law claims. If one adds legal expenses to common law claims - there can be legal expenses in bringing workers' compensation claims as well as common law claims, although they mount up more in common law claims - they will outdistance weekly payments. I table that document.

[See paper No 1759.]

Hon PETER FOSS: I will give some examples of applications that have been made and granted. The first example is of a 35 year old truck driver who experienced 25 per cent permanent loss of function. He returned to work, but was able to access the second gateway because the District Court calculated his future economic loss to the age of 65 years. As a part time taxi driver he was earning $214 net a week. His employer offered him a job as a transport coordinator earning $507 net a week. A judgment of $365 961 was delivered calculating future economic loss to age 65 as the difference between the current weekly rate of pay for a truck driver, which was $634, and that of a part time taxi driver, even though he was offered a job at $507 a week.

A 27 year old female guest public relations officer working on a casual basis earning $9 215 a year sustained a shoulder injury on 3 October 1994. She said that if it had not been for the alleged accident she would have applied for a position as a police officer earning $40 000 a year and would have worked to the age of 65. She had a baby in the following year and indicated to the specialist she was happy looking after the baby and was not keen to return to work. In 1996 she participated in work trials, including as a bank teller. The specialist opinion indicated that she was fit for full time work as a bank teller earning between $21 736 and $29 000 a year. In assessing future pecuniary loss, despite arguments from the insurer, the District Court accepted the worker's assertion that she would have become a police officer and that she was likely to be incapacitated to age 65, which was contrary to medical evidence. The District Court did not apply the 6 per cent multiplier when calculating future pecuniary loss and did not make any discounts for contingencies. Leave was granted, and the matter was appealed by the insurer to the District Court, but the judge dismissed the appeal. That was a decision on leave to appeal; it was not the final decision.

The third example is of a 31 year old vegetable picker earning $20 524 a year who sustained a back injury. The argument was that present levels of pain precluded her, at best, from working more than nine hours a week, but she had no medical evidence by way of an affidavit in support of this assertion. The insurer's medical evidence indicated that she could work full time at clerical or light shop assistant duties earning approximately $20 020 a year. The registrar granted leave on the worker's assertion of being capable of working only nine hours a week and did not apply the 6 per cent discount. The insurer's appeal to the District Court was dismissed. The judge determined that if the worker's complaints of pain were accepted by a trial judge future pecuniary loss may well exceed the required threshold. The difficulty is that we do not know what the situation will finally be because there is no threshold to say when it should be referred.

Progress

Hon PETER FOSS: I move -

That the Committee report progress and seek leave to sit again.

Question put and passed.

President in the Chair.

The CHAIRMAN (Hon J.A. Cowdell): The Committee of the Whole has considered Assembly message No 139, made progress and seeks leave to sit again.

HON PETER FOSS (East Metropolitan - Attorney General) [9.51 pm]: I move -

That the report be adopted.

Hon TOM STEPHENS: I move -

Hon N.F. Moore: If we do not move to get the Budget adjourned, we won't have a Budget.

The PRESIDENT: Order! I am aware of that.

Hon TOM STEPHENS: It is always difficult when we are in these situations of trying to second-guess what each other is up to.

Hon N.F. Moore: Occasionally you might tell me, having been let down twice already today.

Hon TOM STEPHENS: I appreciate the difficulties under which the Leader of the House is operating.

The PRESIDENT: Order! If the Leader of the Opposition has a procedural motion, I ask that he move it now.

Referral of Message to the Standing Committee on Legislation

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.52 pm]: I move -

That Legislative Assembly message No 139 be referred to the Standing Committee on Legislation.

The PRESIDENT: Order! This is a debatable motion and it supersedes the question that the report be adopted.

Debate adjourned, on motion by Hon Peter Foss (Attorney General).

APPROPRIATION (CONSOLIDATED FUND) BILL (No 1)

Second Reading

Resumed from an earlier stage.

Debate adjourned, on motion by Hon Muriel Patterson.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.54 pm]: I move -

That the House do now adjourn.

Workplace Agreements - Adjournment Debate

HON KIM CHANCE (Agricultural) [9.54 pm]: Members will remember I raised an issue on a motion last week, also concerning the compulsory nature of workplace agreements. I was not happy about the situation which existed in respect of the apparent conflict created by the compulsory nature of those agreements vis-a-vis the clear statements in the second reading speech covering the Workplace Agreements Bill which, in no less than seven different places, stressed the enhancement of choice. Notwithstanding that and the fact that the Government chose not to respond in any way to those allegations, I now raise an issue which I believe must be considered by the House. Under section 33 of the Workplace Agreements Act - this is the first time I believe this has occurred - the Commissioner for Workplace Agreements has thrown out one of the compulsory agreements.

Hon Peter Foss: So the system works.

Hon Ljiljanna Ravlich: What a joke!

Hon KIM CHANCE: The Attorney General may say that -

Hon E.J. Charlton: How many have been accepted?

Hon KIM CHANCE: I do not know how many compulsory agreements have been accepted to this stage, if "accepted" is the right word - it implies a choice in that one has a choice of accepting or rejecting. If the opposite to accepting workplace agreement is rejecting the job, one could say that a few compulsory workplace agreements have been accepted.

The PRESIDENT: Order! There is too much audible conversation in the House. The Leader of the Opposition will come to order. Certain people are required to hear what is going on, and neither I nor Hansard can hear the member.

Hon KIM CHANCE: Any new employee who seeks a job in the public sector is required to take a compulsory workplace agreement. Also, any existing employee who is changing the nature of his or her work in the manner that would fall into the definition of a new job description is simply required to take on one of the so-called workplace agreements, which are in fact compulsory terms of contract. More accurately, they are adopting the employer's ambit claim. That is exactly what they represent.

As nearly as I can determine, the decision was made by the Commissioner of Workplace Agreements on 18 June; certainly, that is the date of the letter of advice to the person forced into signing one of these agreements. Until this time, it was unclear whether section 33 of the Workplace Agreements Act would be effective, but it seems now that it is effective. That is why I asked the question of the Leader of the House in question time today: I asked whether on receiving notice of this advice, he would ask people within agencies under his control to desist from offering compulsory workplace agreements. I will be interested to hear the Minister's and the Government's comment on that matter at the appropriate time. I realise that the decision will need to be made after considering the decision of the Commissioner of Workplace Agreements. However, a clear determination was made by the Commissioner of Workplace Agreements; that is, where employment is offered under such terms, it does not provide clear choice for the employee.

It will be possible for the employee, or even in circumstances that I can imagine, the employer, to go back within the 21 day period after the workplace agreement was submitted for registration and say, "Look, I do not understand this." If that occurs, the commissioner is bound to reject the workplace agreement under section 33 of the Act. This poses a very interesting question: Taking just one occupational group, nurses forced onto workplace agreements can sign the workplace agreements, but within 21 days they can go back to the Commissioner of Workplace Agreements and say, "I did not sign the workplace agreement because I wanted the agreement, but because I wanted a job."

The Commissioner for Workplace Agreements will have no choice but to say that the workplace agreement shall not be registered. Where will that leave the employer and employee? It appears that under the Unfair Dismissals Act the employer will have no choice other than to say that the worker must go back to the enterprise bargaining agreement or the award.

Hon Peter Foss: You are not employed if there is no agreement.

Hon KIM CHANCE: The Attorney General might find great difficulty arguing on the basis of the Unfair Dismissals Act because then he would have to dismiss the employee. The employee may have been employed under set conditions of employment, but since those set conditions will have fallen over, the workplace agreement is very clear on what should occur.

Hon Peter Foss: The workplace agreement will not exist; it will have been terminated.

Hon KIM CHANCE: Section 33 of the Unfair Dismissals Act provides that the agreement signed between the parties would cease to have effect. That does not mean the employee is no longer employed. It means the contract of employment has been rendered null and void. If the employer dismissed that employee he would run into the question of unfair dismissal.

Hon Peter Foss: It would be terminated.

Hon KIM CHANCE: I will be interested to see how the courts deal with cases like this. On this precedent, which will be well known soon, we will see people who have been forced into signing workplace agreements going back to the commissioner within 21 days and saying they did not want the agreement; the only reason they signed the agreement was to get a job and if they had not signed it they would not have had a job.

Hon Peter Foss: It sounds like fraud.

Hon KIM CHANCE: Fraud, but committed by whom?

Hon Peter Foss: It could be by the employer.

Hon KIM CHANCE: The employer is in an awkward position because the Government has put government employers into an awkward position. For example, country health services now cannot offer a position to a nurse or somebody employed under the hospital and miscellaneous workers award unless the position is offered on the basis of a compulsory workplace agreement. How does the Geraldton Regional Hospital attract a nurse from Royal Perth Hospital who has the protection of the EBA? She would have to leave the enterprise bargaining arrangement at RPH and sign a workplace agreement at Geraldton. Nobody in their right mind will do that.

Hon Peter Foss: Why?

Hon KIM CHANCE: Because the conditions in a workplace agreement are substantially less than those in an EBA.

Hon Peter Foss interjected.

Hon KIM CHANCE: Of course they are; but the Minister can argue that with the Australian Nurses Federation. The Minister for Health has been trying to do that, but he has been doing a lousy job of it. This is a fascinating question of law which must be considered. Many people who have been forced into signing these agreements will be making alternative arrangements.

HON PETER FOSS (East Metropolitan - Attorney General) [9.58 pm]: In some ways I regret Hon Joe Berinson is not here.

Hon Tom Stephens: I am sure he doesn't.

Hon PETER FOSS: We would have heard the most significant and loud outcry had the House done to him what it did to the Leader of the House today; that is, to take the business of the House out of his hands. I raise this in the context of the management committee. My understanding is that it was discussed with various members in the hope we would finish the business of the House prior to the adjournment today. It is usual under those circumstances to allow the House to sit beyond 10 o'clock to deal with matters. In this instance the House decided not to do so, notwithstanding what was discussed at the management committee.

It seems that we have departed from a process in which the Leader of the House should have control. Members opposite might not have wanted to sit beyond 10 o'clock tonight. As far as I am aware, in the 100 or so years in which the coalition had control of this House, even when practically nobody was on the Government side, the House was not prevented from sitting late at the end of a session to finish the business of the House. In the light of all this vaunted management committee which is supposed to inform opposition members in advance of the Government's intentions, it is particularly offensive, that, at the drop of a hat, it can decide to take the business out of the Government's hands.

Frankly, I do not see how a House can function if the Leader of the House is not able to decide minor matters such as sitting beyond 10.00 pm. It seems that what was discussed in the management committee was departed from far too lightly. It seems that somebody decided, "We will not do it; we will make a misery for you." I do not know what the reason was. The Leader of the House has not been consulted on this matter. He should not be in a position where he must be consulted. He should have the capacity to say what the business of the House will be. It is disgraceful the way members opposite have taken the business out of the hands of the Government. They are abusing their position, and doing so it seems for the weirdest and lightest of reasons, if they have a reason other than to flex their muscles. If they believe that the people of Western Australia are served by having a Government continually stymied by the behaviour of members opposite, they have it wrong. They have a duty to let the Government get on and allow the Government to govern.

Hon Kim Chance: You are not being stymied.

Hon PETER FOSS: We are. Here we are coming up to prorogation.

Several members interjected.

Hon PETER FOSS: They do not like it. The reason Hon Kim Chance is interjecting is that he knows I am right. He knows that if members opposite had behaved like that and Hon Joe Berinson had been here, he would have absolutely gone for them. Hon Joe Berinson knew that despite the fact that this House has time and again had a majority against the Government, this House has always given the Government the opportunity to get on with the job and to run the business of this House. Members opposite have decided to do otherwise.

Hon Tom Stephens: It is a pity that you were not so kind about Hon Joe Berinson when he was here.

Hon PETER FOSS: I do not agree with everything he said; I never have. The one thing he did know about was that he had an Opposition which recognised -

Hon Ken Travers interjected.

Hon PETER FOSS: Listen to that. That is how seriously the Opposition regards its job.

Hon Kim Chance: This is the most cooperative Opposition this House has ever had. You know it.

Hon PETER FOSS: Then why did members opposite take out of the hands of the Government the ability to finish the business of the House today? I ask not only the Labor Party, but the Democrats. What is the point?

The PRESIDENT: Order! The Attorney General is speaking through the Chair.

Hon PETER FOSS: Mr President, I ask those members to tell us why they bothered to go to a management meeting where they asked the Government to indicate its intentions and where they indicated their sympathy for those intentions, and when it comes to the test, without any warning whatsoever, we suddenly find that something else has been agreed. I ask them what happened to the tradition that the most important thing is that the State of Western Australia be properly governed. To do that they should allow the Government to conduct the business of this House.

Hon John Halden: What a hypocrite you are! I remember you in opposition.

The PRESIDENT: Order!

Hon John Halden: You are now talking drivel.

Hon PETER FOSS: If the member can remember us in opposition, he will remember the number of times on which we agreed to those motions.

The PRESIDENT: Order! Hon John Halden does not seem to understand that there will be no interjections during the adjournment debate. If he wants to speak, he will have the opportunity in a few minutes.

Hon PETER FOSS: The point I am trying to make is that we had a majority in this House. I remind people of this: Half the elected members of this House are from the Government. Members must not forget that. Members opposite talk about mandates. They must remember that half of the elected members of this House are from the government parties, one-third are Labor and one-sixth are the remainder.

Hon E.R.J. Dermer: Half represents one-quarter of the people.

Hon PETER FOSS: No, not at all.

Hon E.R.J. Dermer: Do your arithmetic.

Hon PETER FOSS: I do not need to do that. If members look at the numbers who have voted for us, they will find the facts. Members opposite do not seem to have any regard to the fact that what an Opposition has to do is have somebody in charge of the House who runs it. On a number of times when we did not want to sit beyond 10.00 pm, or 11.00 pm as it was, we agreed to it. It was not because we liked it but because we respected the fact that the Government had to get on with the business of the House.

One more thing to be taken into account here is that it had been indicated by the Greens and the Democrats that they thought tonight would be an appropriate time to bring to a close the business of this House before we adjourn. They obviously changed their minds about that and decided that they would not cooperate with that after all. If that is the case, just let us know.

The way we find out is when we see in the division suddenly someone pops up, proposes it and members opposite are voting with it. That does not indicate the cooperation that members opposite want from us. There is no point in having a management committee, because the only people who expect to be bound by it are us; members opposite feel free to do whatever they like. It is a total reverse of what was originally intended by the tradition of the Parliament that the Government should be allowed to order the business of the House. Now, the only people who are not allowed to have any say in the order of the business of the House are the members of the Government. We are expected to tell everybody what we intend to do; however, members opposite can change their minds about it any time they like and do not have to tell us what they intend to do.

Members opposite have totally lost sight of what they should be doing as an Opposition, Independents, Greens or Democrats. If we are to have any cooperation in this House, it requires a little bit -

Several members interjected

The PRESIDENT: Order! The Attorney General is still speaking.

Hon PETER FOSS: I would like us to get the cooperation in this House that we should expect. After the cant from the Opposition about a new era of cooperation, a new era of doing things properly, all they have done is flex their muscles from time to time.

Hon J.A. Scott: Sit down!

Hon PETER FOSS: I beg your pardon?

Hon John Halden: "Sit down" is what he said.

Hon PETER FOSS: I thought he said that. I would like to know that that was recorded. It is important that it is recorded in *Hansard* because it indicates his attitude. He has his jackboots on and wants to ride roughshod over us.

Hon Kim Chance: At least they are green jackboots.

Hon PETER FOSS: It was also said by Hon John Halden. That is the kind, green, calm, consultative attitude that we get from Hon Jim Scott.

Hon John Halden: That's right, because we can't stand you at the moment because you are talking nonsense.

The PRESIDENT: Order members!

Hon PETER FOSS: I do not want this evening to pass without it being put on the record, as I am sure Hon Joe Berinson would have wanted me to.

Hon John Halden: He thought you were a hypocrite then and he probably thinks that now.

Hon PETER FOSS: This Opposition does not accord to the Government the courtesy that for over a hundred years was accorded by us when we were in Opposition.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [10.14 pm]: I recognise that the task of getting through a long session like this has called on all of us to show extraordinary tenacity. I recognise, in particular, that challenge for the Leader of the Government is extremely onerous indeed.

Hon E.J. Charlton: What did you tell me last Tuesday?

Hon TOM STEPHENS: I want to tell members opposite what I am saying now. The Minister should not interrupt. For the Leader of the Government it is a major challenge to be confronted with a legislative program that he is, of necessity, obligated to ensure the orderly consideration and resolution of that business. It is a challenge also for that Leader because in these 12 months it has been a different circumstance with which this House is faced as a result of the change of numbers that has occurred since 22 May. I say, by way of gentle response to the Attorney General, that clearly we are all quite tired at the end of what is effectively a long session. It has been now a seven week continuous session. I add that the members in the other place, for instance, did not have the appetite for such a long, continuous and arduous session.

Hon Kim Chance: They are wimps.

Hon TOM STEPHENS: They may well be wimps.

Hon N.F. Moore: Obviously not as tough as you are because there is plenty of time yet; there is all of July.

The PRESIDENT: Order! I know that the interjection was said lightheartedly but when it appears in *Hansard* it is open to interpretation. Therefore, I just remind members that they cannot reflect on members in another place as much as they cannot reflect in an offensive way on members in this place.

Hon TOM STEPHENS: We have the task tomorrow of considering a major change in the Government's legislative agenda in the amendments to the workers' compensation legislation. A legitimate argument could be put that it is a tall order to have those amendments introduced at very short notice and then to require this House to deal with them today.

We must confess that we are very tired at the end of a long session. Some members bear more responsibility for that than others, and I am one such member. The Greens and the Democrats must be feeling the strain as they have many more briefings per member than members of the Labor Party because of their smaller numbers in the Chamber. Members require some time to be able to work their way through the consideration of these issues.

The Attorney General's comments are not necessarily positive. I hope that tomorrow at a reasonable time we can complete consideration of the Government's legislative agenda for this session.

Hon N.F. Moore: You are all heart.

Hon TOM STEPHENS: That is my earnest hope. I also hope -

Hon N.F. Moore: I have news for you.

Hon TOM STEPHENS: You are the Leader of the House.

Hon N.F. Moore: We have a fair bit more to do.

Hon John Halden: Good! We are waiting for it.

Hon N.F. Moore: We have been told we cannot manage the legislative program, so we will finish it.

Hon John Halden: We are ready, willing and able.

Hon N.F. Moore: I hope you don't have your ticket booked.

Hon John Halden: I'm not going anywhere.

Hon E.J. Charlton: You might be going somewhere.

Hon John Halden: Not in July this year. You spent $6m of taxpayers' funds trying to get me there, but you may not achieve it.

Hon N.F. Moore: It would be cheap at half the price.

Hon John Halden: It will be used -

The PRESIDENT: Order!

Hon TOM STEPHENS: That series of exchanges was obviously not meant; it is evidence of the fact that members are tired. We are legitimately entitled to come to the end of the session. I hope that by a reasonable time tomorrow the matters that the Government needs to address will be dealt with by the House.

HON JOHN HALDEN (South Metropolitan) [10.18 pm]: I have always been astounded by the Attorney General's somersaults and turns, be that his title or the more humble title of "honourable member". His recollection of events while the Labor Party was in government can be at best described as revisionist, fallacious and nonsensical. There are some unparliamentary terms that you, Mr President, would rule out of order were I to use them to describe the Attorney General's comments in reality or common English usage. I will refer to some specific examples. I remember a Labor Government program on prorogation. Of course, this Government, although it does not have the numbers, expects the House to restore the Notice Paper when Parliament resumes. In an unprecedented move the then Opposition - comprising members opposite - did not allow the Labor Government to do that. I may stand corrected, but I recall a motion being moved by the now Attorney General to reconstitute Bills from the beginning -

Hon Ken Travers: I would read that motion into *Hansard*!

Hon JOHN HALDEN: This is the man who said that we were being very nice to the Attorney General. What rubbish! A moment ago, I said to Hon Ed Dermer that there was only one politician to whom we could turn to use a debate, particularly by the Attorney General, that I would get angry about - and it is the Attorney General! I remember the then member for North Metropolitan and his colleague from East Metropolitan unmercifully attacking an Attorney General on the most unbelievable grounds. Apart from the restoration to the Notice Paper of certain Bills, a motion which was defeated by members opposite when in opposition - a compassionate Opposition as we heard from the general context of the Attorney General's speech -

Hon Ken Travers: We must show more compassion in future!

Hon JOHN HALDEN: I do not want to go into that. I remember day after day in this place, that at 11 o'clock no extensions were granted - you may recall that, Mr President - because the Opposition of the day decided it would not be the case. At the end of the term we were graciously allowed to complete the non-controversial, machinery-type Bills to get us through the program. The Attorney General stopped that!

Hon Kim Chance: We were told which ones we could handle.

Hon JOHN HALDEN: Exactly! On that basis, members opposite should not come into this place and expect any mercy. It would be an insult to our intelligence to expect that. It is an outrage that, having made that fallacious speech, the Attorney General is now not in the Chamber - for whatever reason. One can say no more about that.

I will not stop there. I turn now to the art of filibustering. I am pretty reasonable when it comes to filibustering. I was taught by the current Attorney General and Hon Derrick Tomlinson, when I was the Parliamentary Secretary, just how to filibuster. I saw them take the East Perth Redevelopment Bill, the pecuniary interest Bill, and the Port Kennedy Bill and filibuster in a way never seen in this Chamber. I hope I emulated that example, to give an idea of what it was like. If the Government wants our cooperation, it will not get it when the Attorney General lectures us about it.

I turn now to the hypocrisy that we have witnessed tonight. My friend and former Attorney General, Hon Joe Berinson, is the person whom I have admired the most in this Parliament for the entire time I have been here, and probably for the whole time I will be here - until the Minister for Transport succeeds in his $7m crusade against me! On his last night in this Parliament, when we had supper I remember an attack by the now Attorney General on Hon Joe Berinson. One could never lay a glove on Hon Joe Berinson in any royal commission, nor could one doubt his intellect in this Parliament. However, on his last night in this place, members opposite, led by the current Attorney General, attempted to degrade him. When we entered the President's corridor, Hon Joe Berinson said to me words to the effect, "I know that this is my last night and I should enjoy the company of all my parliamentary colleagues, but after what I was put through, principally by the Attorney General, I am going home." I did not want to hear the claptrap that we heard from the sanctimonious fool who is not present in the Chamber -

The PRESIDENT: Order!

Hon JOHN HALDEN: I will withdraw whatever you want, Mr President, but it was beyond the pale. Members cannot make such comments and not expect to have the truth thrown at them across the Chamber. Members may not like my tone, but I am telling the truth about what happened.

Members should reflect on what may have caused whatever outburst today. The Government has made significant changes to workers' compensation, of which we were not aware until last week. We are asking the Government to constrain itself for one day so that we can consider those matters tomorrow. Will the world stop as a result of that? They should get real!

I think it is fairly clear from my remarks tonight that I will not accept under any circumstances this revisionist nonsense from the Attorney General. Only too frequently does he come in here and try to disclaim what he did when he was in opposition. I actually have some admiration for what he did when he was in opposition. I may not have agreed with it then, and I may not agree with it now, but I understand the effectiveness of it. However, the Attorney should not try to rewrite history now, because for those of us who were here it was very unpleasant. It was most unpleasant for Hon Joe Berinson, against whom the most outrageous personal attacks were made. I do not want to hear from the Attorney General any mumbo jumbo about how we should be kind to minority Governments, because I remember that period very well, as I am sure do you, Mr President, and very little kindness was extended to the Government. I remember some members who are now deceased who showed very little kindness to us. I principally remember to this day the behaviour of Hon Derrick Tomlinson and Hon Peter Foss. No courtesy was extended to the Government of the day, nor to the Attorney General of the day. That will not be forgotten for as long as one Labor member is in this place who was here when we were in government at that time, because it was an outrage and an abuse of the then Opposition's numbers. Therefore, when government members have to sit one extra day, in the context of what we tolerated for four years, they are goddamn lucky.

HON NORM KELLY (East Metropolitan) [10.27 pm]: I must respond to the Attorney General's comments about the management committee. That committee has met only once at this stage. It appears that the Attorney General is under some crazy impression that the role of the management committee is to determine how many speakers will speak and for how long those speakers will speak.

Hon N.F. Moore: That is not right. He said agreement was reached.

Hon NORM KELLY: From what the Attorney said earlier, we are led to believe that the management committee's role is to organise debate so that we can work out when we will finish the day's proceedings.

The Leader of the Government talked about what he expected to be the progress of business in today's sitting. We know what we have before us -

Hon N.F. Moore: I talked to your leader and to the Greens (WA) last Thursday afternoon, and they indicated that they would like to finish today, and I was working on that basis. You did not tell me that you had changed your mind.

Hon NORM KELLY: The fact is, as we have seen -

Hon N.F. Moore: You are entitled to change your mind, but at least tell us.

The PRESIDENT: Order! I want to hear from Hon Norm Kelly only.

Hon NORM KELLY: At nine o'clock tonight we were still arguing about whether to refer the School Education Bill to a committee.

Hon E.J. Charlton: That was your decision and no-one else's.

Hon NORM KELLY: It was not our decision. Speakers from the government benches spoke on that referral. It was not just members of the Labor Party, the Democrats or the Greens who added to that debate. It was a protracted debate. Why should members not have a say on those issues if they want? We still need to debate the workers' compensation legislation. That will take no short amount of time. We still need to debate two appropriation Bills. I am aware that some members want to raise genuine issues during that debate, and they should be allowed to raise those issues. A disallowance motion will be before us tomorrow, which I am sure will take a couple of hours and is an important issue.

The sitting started at 11 o'clock this morning by agreement because we wanted to get through the business in today's sitting. At 9.30 pm, when the Leader of the House moved to extend the sitting hours, all these matters were still to be dealt with. Therefore, if the sitting had continued we would have gone through until daylight tomorrow morning to complete them.

Hon E.J. Charlton: Why not talk about it and we could have agreed to sit until 11 o'clock or 12 o'clock?

Hon NORM KELLY: Exactly. Members did not have an opportunity to do so because the Leader of the House moved to sit beyond 10.00 pm, but he did not specify that it would be until 11.00 pm or midnight. The Democrats would have readily agreed to that. However, they had no opportunity to do so. Most members probably did not anticipate that the School Education Bill would take so long to debate. Committee meetings will be held tomorrow morning, and, if the House had sat until 3.00 am, it still would not have completed all the business, and members would have had to attend committee meetings after only a few hours' sleep. It is time this House made some sensible decisions about the hours of business. It was not a question of our taking the business out of the Government's hands, as the Attorney General would like to think.

Hon N.F. Moore: We have just passed new standing orders about the hours of sitting and you agreed to them.

Hon NORM KELLY: According to the Attorney General, that is completely different. The Democrats would have been more than happy to sit for an hour or two after 10.00 pm, to get through at least one of those items of business, but it is clear to most members in this House - obviously not to some members on the government side - that quite a few more hours are needed to deal with matters before the House rises. The House could have sat until breakfast or lunchtime tomorrow, but that would be a crazy situation.

I am glad the Leader of the Opposition pointed out that members of the minor parties have the extra burden of briefings and so on. I have been arranging those matters for the disallowance motion, which I anticipated would be dealt with today but will now be dealt with tomorrow. I hope the Leader of the Opposition remembers that when he is in government, and allocates resources accordingly. I am sure the Democrats will remind him at that time. It would have been terrible not to comment on the Attorney General's earlier outlandish suggestions.

HON J.A. SCOTT (South Metropolitan) [10.32 pm]: I speak in this adjournment debate as a result of the Attorney General's comments. I certainly have some sympathy for Hon Norman Moore although when we talked about finishing the session today, I did not expect it to be at six o'clock tomorrow morning. Six or seven speakers still want to speak on the appropriation Bill and that will take a huge amount of time, in addition to all the other matters that must be dealt with. Clearly, a certain amount of time remains to deal with business, and it is better to do that after members have had a good sleep, are awake and can deal with matters properly, rather than at 5.00 am when they have no brains left in their heads.

Hon N.F. Moore: Some of you start the day like that!

Hon J.A. SCOTT: The community thinks we are total idiots and bad managers to work in those circumstances. It is totally stupid to do so, and I am pleased that we shall come back tomorrow to complete the business.

Hon N.F. Moore: And the day after and next week.

Question put and passed.

House adjourned at 10.33 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

SECURITY FIRMS AND INQUIRY AGENTS

Government Contracts

1415. Hon TOM HELM to the Leader of the House representing the Premier:

(1) What are the names of security firms which have contracts with the State Government?

(2) What are the names of inquiry agents which have contracts with, or are listed for use by, Government departments?

(3) What procedures and checks are in place to ensure security firms and inquiry agents which receive Government contracts are reputable and responsible companies and individuals?

The answer was tabled. [See paper No 1756.]

P & C STEVEDORES

1483. Hon TOM STEPHENS to the Leader of the House representing the Premier:

I refer to the claim by P&C Stevedores in the *Financial Review* of March 30, 1998 that it planned to extend its non-union docks venture to Fremantle within weeks, and ask -

(1) Has the Government, or any government department or agency, been negotiating stevedoring services with P&C?

(2) Has Cabinet discussed the company's plans to move into the Port of Fremantle?

Hon N.F. MOORE replied:

Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

Ministry of the Premier and Cabinet

(1) No.

(2) As outlined in its Comment Paper to the Commission on Government, the Government is strongly of the view that maintenance of the principle of collective responsibility requires that the confidentiality of Cabinet proceedings is assured. This is a fundamental and widely accepted principle of the Westminster System of Government. In this context, there is a need to preserve confidentiality of Cabinet discussions to ensure that the effectiveness of the decision making process of Cabinet is not prejudiced. The principle of Cabinet confidentiality has been maintained since the inception of the Cabinet System of Government. My Government considers that it is very much in the public interest to retain the existing conventions relating to confidentiality.

Minister for Transport:

(1) No insofar as the Transport Portfolio is concerned.

(2) It is not customary for the Government to publicly discuss Cabinet deliberations.

WORKSAFE WA OFFICERS

Complaints

1581. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

(1) Has a complaint been lodged with the Ombudsman in relation to the actions of Mr Bartholomaeus or any other WorkSafe WA officers?

(2) Has a complaint been lodged with any other Government investigatory agencies in relation to the conduct of Mr Bartholomaeus or any other WorkSafe WA officers?

(3) If so, to whom?

(4) How many of the complaints in (1) and (2) above have been investigated and reports completed?

Hon N.F. MOORE replied:

(1) The Ombudsman's Office has advised that a total of seven complaints involving WorkSafe have so far been received during the current reporting year.

(2)-(3) Complaints have been lodged with the Commissioner for Public Sector Standards in relation to Mr Bartholomaeus.

(4) The matter is still under consideration by the Commissioner for Public Sector Standards pending legal advice.

GAS FITTERS' PREFERRED INSTALLER STATUS

1649. Hon KEN TRAVERS to the Leader of the House representing the Minister for Energy:

(1) Does AlintaGas have a system for granting preferred installer status for some gas fitters?

(2) If yes, on what basis is the preferred status granted?

(3) What are the benefits for the consumer who uses a preferred installer?

(4) What are the benefits to a gas fitter who is granted preferred installer status?

Hon N.F. MOORE replied:

(1) Yes.

(2) Meeting set criteria.

(3) Access to quicker gas connections.

(4) Participation in a quicker gas connection process.

PATERSON PROJECT

1681. Hon GIZ WATSON to the Leader of the House representing the Minister for Resources Development:

With reference to question without notice 241 of April 9, 1998 -

(1) Where is the prospective area referred to as the Paterson Project?

(2) Who are the current owners of this potential development?

(3) What are the current tenement numbers covering this project?

(4) Does the Acclaim group of companies hold any of the identified reserves?

(5) If so, which ones?

(6) Has the DRD had any discussions with any potential proponent of a uranium project in relation to potential shipping or port facilities for the export of uranium?

(7) If so, with which companies and at what ports?

Hon N.F. MOORE replied:

I am advised:

(1) The Paterson Project is an historic name for a large project area situated roughly between Nifty, Kintyre and Telfer, approximately 250 km NE of Newman. The area has been explored for uranium, base metals and gold. A summary of public information on this project is included in the uranium section of 1997/1998 edition of the Register of Australian Mining. The Hon. Member is referred to this publication for further technical details.

(2) UAL Pty Ltd, a wholly owned subsidiary of Uranium Australia NL, and Cameco Australia Pty Ltd are registered holders of exploration licences principally for uranium in the area which was originally part of the Paterson Project.

(3) Currently granted tenements referred to in response 2 above.

Company	Tenement
UAL Pty Ltd	E 45/747 E 45/1463
Cameco Australia Pty Ltd	E 45/1684 - 1687 E 45/1902

(4) The Acclaim group of companies does not hold any granted tenements in the area of the Paterson Project. It has lodged several applications for tenements in the region which are discussed in the August 1997 prospectus issued by Acclaim Uranium NL. For further details relating to this, and other of Acclaim's uranium prospects, the Hon. Member is referred to the copy of this prospectus tabled in response to her previous question No. 757 of 20 August, 1997.

(5) The Hon. Member is referred to the copy of Acclaim's prospectus tabled in response to her previous question No. 757 of 20 August, 1997.

(6) Yes.

(7) Canning Resources has discussed with Department of Resources Development its preferred shipping scenario through Port Hedland.

GOVERNMENT'S TIPPING POLICY

1685. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) What is the Government's policy on the practice of Ministers tipping for services provided in restaurants and elsewhere?

(2) Is this policy contained in any document?

(3) If yes, will the Premier table a copy?

(4) Has the policy been amended or revised at any time since the Government's election in 1993?

(5) If yes, will the Premier table a copy of those amendments and detail the dates on which they became operative?

Hon N.F. MOORE replied:

(1)-(5) Tipping for services is covered in "Guidelines for Expenditure on Official Hospitality". The preliminary to these guidelines includes the following:

> The guidelines are not intended to place undue restrictions on the operations of departments, agencies and other public bodies. They aim simply to establish reasonable criteria for the accountability of expenditure in this area while recognising that Chief Executive Officers and others charged with responsibility for incurring hospitality expenditure need to be able to exercise some discretion.

The guidelines were issued in February 1995 and amended in August 1997 following a review. [See paper No 1757.]

GOVERNMENT DEPARTMENTS AND AGENCIES

Non-compliant with Legislation

1697. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

Further to the results of the financial statements audit into Ministerial Portfolios, page 2, undertaken by the Auditor General -

(1) Which four agencies were non-compliant with legislation?

(2) What is/are the Minister/s responsible doing to rectify this situation?

Hon N.F. MOORE replied:

(1) The four agencies as explained in the summary of the results of agency audits in the Auditor General's Report are:

Department of Transport (p41)
The Aboriginal Affairs Planning Authority (p64)
The University of Western Australia Superannuation Scheme 1979 (p69)
The University of Western Australia Superannuation Scheme 1983 (p69)

(2) Department of Transport (p41)

The Section of the Road Traffic Act which provided for a penalty of half the annual license fee for the non return of number plates has been repealed. Transport has subsequently put in place a comprehensive process which includes the issue of a computer generated infringement notice for the failure to return number plates.

The Aboriginal Affairs Planning Authority (p64)

The Aboriginal Affairs Department is working with Treasury officers in order to rectify the issue as quickly as possible.

The University of Western Australia Superannuation Scheme 1979 (p69)
The University of Western Australia Superannuation Scheme 1983 (p69)

These are final audits of schemes which were closed in 1995 and members transferred to the Superannuation Scheme for Australian Universities. The University disputes the finding and is following up the matter with the Insurance and Superannuation Commissioner.

TEACHERS SECONDED TO ASSOCIATION FOR SERVICES TO TORTURE AND TRAUMA SURVIVORS

1700. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

(1) How many FTE teachers have been seconded to the Association for Services to Torture and Trauma Survivors ("ASSeTTs") using Federal funds paid through the State Health Department?

(2) What are these FTE teachers employed to do?

(3) In which school districts do they operate?

(4) How many clients have they counselled?

Hon N.F. MOORE replied:

(1) No FTE teachers are seconded to the Association for Services to Torture and Trauma Survivors (ASSeTTs) using Federal funds paid through the State Health Department. However, ASSeTTs has seconded one Education Department FTE teacher. This teacher's salary is paid by the Immigration Department.

(2) This teacher is employed to:

Collect data on students potentially "at risk" across Government, Catholic and Independent school systems;

Identify schools across all systems and districts who have urgent support needs;

Provide support on a needs basis to classroom teachers and students. This does not involve counselling of students but does involve working with the child and Adolescent counsellors on classroom strategies;

Provide support and training to education professionals in schools and districts; and

Develop a school support model in target schools.

(3) The Service of the FTE teacher is available to schools on request.

(4) The teacher working with ASSeTTs is not employed in a counselling capacity.

ONSLOW GENERAL STORE'S ELECTRICITY TARIFF

1721. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

(1) Did Western Power tell the owners of the Onslow General Store, which is the sole food and grocery outlet in the town, that it would not supply the store with additional units of electricity over the store's 1995/96 consumption unless they agreed to pay an increased tariff?

(2) If yes, what was the increased tariff?

(3) What is the additional amount the store has been obliged to pay for the additional units since the tariff increase?

(4) In deciding to increase the tariff did the Government or Western Power take into consideration the impact of increased power costs on food prices and living standards in Onslow where large capacity refrigeration is essential for the store to supply the community?

(5) Will the Government review the policy in the light of the increased costs to the Onslow community for the necessities of life?

Hon N.F. MOORE replied:

I am advised:

(1) No. Western Power advised the Onslow Supermarket and Liquor Store that additional electricity used above 200,000 units per year would be charged an additional price.

(2) The additional charge on their consumption above 200,000 units per year was 8 cents per unit.

(3) The additional charge on the additional consumption since the tariff increase totals $6,772.14.

(4) Yes.

(5) The policy is an interim measure that is currently under review by Government.

WESTERN POWER EMPLOYEES, CARNARVON

1722. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

(1) Is Western Power proposing to contract out the operation of the new gas turbine power generation equipment in Carnarvon?

(2) What jobs will be lost by current employees of Western Power in Carnarvon as a result of these changes?

Hon N.F. MOORE replied:

(1) No.

(2) Not applicable.

MABO CHALLENGE, COST

1761. Hon TOM STEPHENS to the Leader of the House representing the Premier:

What was the total, final cost of the Government's failed challenge to the High Court's Mabo decision and what was the breakdown of payments?

Hon N.F. MOORE replied:

The Government's costs of the challenge to native title legislation were $1,734,451. This figure consists of $964,451 expended by the State on the State of Western Australia *v* Commonwealth case and $770,000 awarded against the State in the Biljabu and Others *v* the State of Western Australia ($120,000 to the Commonwealth, $220,000 to the Kimberley Land Council and $430,000 to the Aboriginal Legal Service).

PASTORAL LEASE UPGRADING TO FREEHOLD TENURE

1763. Hon TOM STEPHENS to the Leader of the House representing the Premier:

Will the Premier rule out the future upgrading of pastoral leases in Western Australia to freehold tenure?

Hon N.F. MOORE replied:

The State Government has no plan to upgrade all pastoral leases in Western Australia to freehold tenure. Section 79(4) of the Land Administration Act 1997 specifically limits the power of the Minister for Lands to extend the term of a pastoral lease or vary the provisions of a pastoral lease. Section 89(1) goes further and explicitly states that the holders of pastoral leases are excluded from applying to the Minister to purchase the fee simple of the Crown land or an option to purchase that fee simple. The Land Administration Act 1997 effectively shuts the door on the general upgrading of pastoral leases.

In specific cases the State does excise land from within individual pastoral leases in the public interest or at the request of private landholders and upgrade the tenure. This is on a case-by-case basis and does not involve upgrading the tenure of the full lease.

NATIVE TITLE POLLING AND RESEARCH

1766. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) Can the Premier confirm the report in *The Australian* (April 1, 1998) which states that the Premiers of Western Australia and Queensland and the Chief Minister of the Northern Territory have commissioned private polling on native title issues?

(2) Did the Western Australian Government contribute public funds to this polling?

(3) Was the matter the subject of any Cabinet decision?

(4) If so, when?

(5) What amount of funds were applied and from which budget?

(6) Will the Premier table the full polling and research reports, including the questions posed?

(7) What company undertook the polling and was there a tender process?

Hon N.F. MOORE replied:

(1)-(2) Yes.

(3) No.

(4) Not applicable.

(5) $49,373.35, the funds were paid from the Native Title Unit budget (DO3NATU), chart number 6180 (consultants).

(6) Yes.

(7) AMR Quantum Harris. The State Supply Commission granted an exemption from the waiving of Public Tenders.

NATIVE TITLE ACT PROCEDURES APPLICATIONS

1767. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) Since the State started using future act procedures of the *Native Title Act*, how many title applications have been referred through *Native Title Act* procedures?

(2) How many, and what percentage, have completed the notification period?

(3) How many, and what percentage, have proceeded to grant because they did not attract objections or claims?

(4) How many, and what percentage of prospecting licences have been cleared under the expedited procedure?

(5) How many, and what percentage of exploration licences have been cleared under the expedited procedure?

(6) How many, and what percentage of the mining leases referred have been cleared?

(7) How many right to negotiate agreements have been struck and endorsed by the State Government?

Hon N.F. MOORE replied:

As at 30 April 1998 -

(1) 11 432 mining titles and 316 land proposals have been referred through *Native Title Act* procedures.

(2) 10,967 (96%) mining titles and 184 (58%) land proposals have completed the notification period.

(3)-(6) 74 of the 184 land proposals (40%) have proceeded to grant because they did not attract objections or claims. 3,105 of the 3,598 prospecting licences (86%) referred have been cleared under the expedited procedure. 3,909 of the 4,823 Exploration Licences (81%) referred have been cleared under the expedited procedure. 348 of the 2 050 Mining Leases (17%) referred have been cleared.

(7) 183 Mining Leases, 4 Exploration Licences, 14 Miscellaneous Licences and 5 General Purpose Leases have been granted following "right to negotiate" agreements. When an agreement is reached between a tenement applicant and native title claimant, that agreement is private. The State Government signs a simple Deed to allow grant of the title and does not endorse the private agreement. 7 land proposals have been granted following "right to negotiate" agreements.

NATIVE TITLE CLAIM MEDIATION ALLOCATIONS

1771. Hon TOM STEPHENS to the Leader of the House representing the Premier:

What specific allocations has the State Government made since the advent of the *Native Title Act* to assist mediation of native title claims?

Hon N.F. MOORE replied:

The State Government has engaged in literally hundreds of meetings with native title claimants, in future act negotiations and in relation to substantive land claims. These negotiations are conducted by the staff from the Native Title Unit, the Ministry of the Premier and Cabinet, the Department of Minerals & Energy, the Department of Land Administration and the Crown Solicitors Office. The overall contribution to mediated outcomes under the *Native Title Act* has not been isolated within the various budgets of the relevant departments.

Under the terms of the *Native Title Act 1993*, the State has only entered into formal mediation of native title in one case so far. This is the mediation on the Karajarri No 2 native title claim (WC96/68) over Shamrock and Nita Downs pastoral leases south of Broome. mediation in that case is continuing.

MIRRIUWONG GAJERRONG NATIVE TITLE CLAIM COSTS

1772. Hon TOM STEPHENS to the Leader of the House representing the Premier:

What is the breakdown of the State's total expenditure in relation to the Mirriuwong Gajerrong native title claim, including legal costs?

Hon N.F. MOORE replied:

The State has spent a total of approximately $3,361,962 for the Mirriuwong Gajerrong native title claim, comprising $2,955,293 on legal costs, $60,000 by the Land Claims Mapping Unit, WALIS, $266,669 by the Department of Land Administration and approximately $40,000 by other agencies who were involved in giving of evidence and preparation of information for the Federal Court. These taxpayers' funded costs are a direct result of the uncertain and unworkable Labor Native Title Act. Unless the Act is amended as proposed by the Prime Minister these costs will be repeated again and again as hundreds of unresolved claims in Western Australia proceed to the Federal Court.

NATIVE TITLE, SUCCESSFUL CLAIMS

1773. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) Have there been any successful native title claims over freehold title land in Western Australia?

(2) Did the State Government supply information to Senator Ross Lightfoot, or his office, in relation to the breakdown of crown freehold titles in each country centre?

(3) Is it correct that 'community centres, cemeteries, aged people's homes and Government offices' are threatened by native title claims?

Hon N.F. MOORE replied:

(1) No, there have been no successful native title claims in Western Australia.

(2)-(3) Yes.

KARRATHA TOWNSITE NATIVE TITLE CLAIM

1775. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) When did the Premier first become aware that McDonald Rudder, the law firm of Liberal Party President David Johnston, was involved in the Yaburara/Mardurdhunera claim over the townsite of Karratha and surrounds?

(2) Given the Premier's purported concern about residential land shortages in Karratha, has he discussed the matter with Mr Johnston?

(3) If so, when?

(4) Did this claim wholly or partly overlap another claim at the time of lodgement?

(5) Prior to the lodgement of the Yaburara/Mardurdhunera claim, was there a native title claim over the Karratha townsite?

(6) What specific steps has the State Government taken to negotiate with the claimants and/or Mr Johnston, over the release of residential land in the area?

Hon N.F. MOORE replied:

(1) The Native Title and Strategic Issues Division of the Ministry of the Premier and Cabinet was first notified that McDonald Rudder was acting for the Yaburara Mardurdhunera claimants on 13 September 1996.

(2) No (see answer to (6)).

(3) Not applicable.

(4)-(5) Yes.

(6) The Yaburara Mardudhunera native title claimants do not have the right to negotiate over residential land releases in Karratha as their claim was lodged outside the required time.

NATIVE TITLE

Applications Paid for by Mining Companies

1776. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) Is the State Government aware of how many mining companies have paid for native title applications in Western Australia since the advent of the *Native Title Act*?

(2) Does the Crown Law Department or any other State Government department or agency have such information in its possession?

Hon N.F. MOORE replied:

(1) The only company where the State Government is aware that a native title application was paid for in Western Australia is An Feng Kingstream.

(2) No.

NATIVE TITLE

Negotiations on Compulsory Acquisitions for Land

1778. Hon TOM STEPHENS to the Leader of the House representing the Premier:

What specific steps has the State Government taken to negotiate, in good faith, with native title holders in relation to compulsory acquisitions for land releases in Wellstead, Hester and Ravensthorpe?

Hon N.F. MOORE replied:

The State Government has undertaken the notification processes as prescribed in the Commonwealth Native Title Act and negotiations with registered claimants and their representatives are ongoing.

NATIVE TITLE

An Feng-Kingstream's Payment of Application Fee

1780. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) When did the State Government sign off on the deed of agreement between Mr Neil Phillips and An Feng Kingstream in relation to the Pandawn claim?

(2) What are the terms of the agreement?

(3) When did the Premier first learn of the An Feng-Kingstream’s payment of the native title application fee for the Pandawn claim?

(4) When did the Premier first learn of the terms of the agreement between Mr Phillips and An Feng-Kingstream?

(5) Will the Premier table a full inventory of correspondence entered into between the State Government and An Feng Kingstream which wholly or partly addresses native title issues?

Hon N.F. MOORE replied:

(1) The State Government has not signed any agreement involving Mr Neil Phillips and An Feng Kingstream.

(2) Not applicable.

(3) When the matter was reported in the Press.

(4) See question (3).

(5) The Department of Minerals and Energy and the Department of Land Administration have entered into routine correspondence with An Feng Kingstream. Correspondence between the Department of Resources Development and An Feng Kingstream is of a commercially sensitive nature and its release could damage negotiations with native title claimants.

CONSTITUTIONAL CENTRE VISITORS

1781. Hon TOM STEPHENS to the Leader of the House representing the Premier:

How many visitors has the Constitutional Centre received in each month since its opening, excluding visitors to the Electoral Education Centre?

Hon N.F. MOORE replied:

Since the Official Opening of The Constitutional Centre, the following visitors have been recorded for each month (excluding Electoral Education):

October 1997	809
November 1997	1,038
December 1997	358
January 1998	769
February 1998	719
March 1998	1,518
April 1998	596
May 1998 (to 22 May)	1,507
Total to date:	7,314

NATIVE TITLE UNIT OF MINISTRY OF PREMIER AND CABINET

1782. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) How many staff are in the native title unit of the Premier's Department?

(2) What are the positions and the salaries, conditions and allowances attached to each?

(3) For each of the last five years, what has been the budget for the native title unit?

(4) What is the budget breakdown for the unit for the 1997/98 financial year?

(5) What proportion of the budget of the unit is dedicated to native title mediation?

Hon N.F. MOORE replied:

(1) 6.

(2)

Acting Assistant Director General	Level 8 (under review)	$ 71,552
Consultant	Class 4	$104,004
Principal Policy Consultant	Level 8	$ 74,839
Policy Officer	Level 6	$ 56,524
Policy Officer	Level 5	$ 52,241
Personal Secretary	Level 2	$ 32,604

Staff in the Native Title & Strategic Issues Division are subject to the Policy Office Workplace Agreement December 1997 or, if they don't choose to be a party to the WPA, the Public Service Award.

(3) Expenditure for the Native Title Unit

1993/4	$1,398,024
1994/5	$ 597,573
1995/6	$ 981,857
1996/7	$ 577,229
1997/8	$ 559,109 (to 30/4/98)

(4) The Native Title and Strategic Issues Division has a 1997/98 budget of $650,000, comprising $296,200 for salaries and allowances, $69,670 for other staffing costs, $13,000 for communications, $216,078 for services and contracts, $34,052 for consumable supplies, $1,000 for maintenance of plant and equipment and $20,000 for purchase of plant and equipment.

(5) The Deputy Director General and staff of the Native Title and Strategic Issues Division (excluding the personal secretary) are involved in native title mediation. No figures are available as to the proportion of their time which is spent on native title mediation each week.

JARRAH FOREST LOGGED

1785. Hon NORM KELLY to the Minister for Finance representing the Minister for the Environment:

(1) What was the total area of jarrah forest logged -

(a) prior to 1940;
(b) only once since 1940, and not since;
(c) between 1940 and 1960;
(d) only once between 1940 and 1960, and not since;
(e) between 1960 and 1970;
(f) only once between 1960 and 1970, and not since;
(g) since 1970;
(h) only once since 1970?

(2) Will the Minister for the Environment table maps at a scale of 1:50,000, showing the boundaries of these logging areas for each of the four periods -

(a) pre 1940;
(b) 1940 - 1960;
(c) 1960 - 1970; and
(d) post 1970?

(3) For each of the four periods, will the Minister table documents showing the nature of the logging operations (the silvicultural prescriptions) applied to the areas identified as having been logged?

(4) What proportion of the area identified in question 1(c) was visited and jointly inspected by regional forest agreement officers in the course of mapping WA's remaining old-growth jarrah forest?

(5) Will the Minister table the reports prepared as a result of these visits, showing location, extent, and conclusions of each inspection?

(6) Will the Minister table the review of old-growth data prepared by Paul McDonald, consultant to Environment Australia, for the RFA?

Hon MAX EVANS replied:

(1)
(a) 564,000 ha.
(b) 480,000 ha.
(c) 479,000 ha.
(d) 213,000 ha.
(e) 332,000 ha.
(f) 151,000 ha.
(g) 580,000 ha.
(h) 116,000 ha.

(2) The Department of Conservation and Land Management has advised that the 1:50,000 maps requested would have to be produced as a special project. The maps would take about 6 - 8 person weeks to produce and the cost would be about $10,000. I am not prepared to divert the resources required to produce the maps in the form requested.

(3) Documented Silvicultural prescriptions specific to each period are not readily available. A summary of the intent and the outcome of the silviculture practices for these periods is published in Stoneman et al (1989) Silviculture. In: The Jarrah Forest - A complex mediterranean ecosystem (edited by B Dell, JJ Havel, and N Malajczuk). Kluwer Academic Publishers, Dordrecht, The Netherlands.

(4) 6%.

(5) There are no formal reports of each area. Areas were determined to be old growth or not by the inspecting officers and recorded as such for entry to the database.

(6) The report prepared by Paul McDonald, a consultant for Environment Australia dealt with issues of photo interpretation of old growth characteristics. It was not a review of old growth data. The report is tabled.

CONSTITUTIONAL CENTRE

Appointment of Director

1786. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) When was the Director of the Constitutional Centre appointed?

(2) What is the salary, terms and conditions of the Director's position?

(3) Did the appointment follow an advertised selection process and the recommendation of a selection panel?

(4) Who was on the selection panel?

Hon N.F. MOORE replied:

(1) 21 July 1997.

(2) Public Service Level 8, salary range $68,902 to $74,839. Salary, terms and conditions are in accordance with the Ministry of the Premier and Cabinet Policy Office Workplace Agreement.

(3) Yes.

(4) Stephen Wood, Chief Executive, Policy Office;
Prof. David Black;
Kerry Ross, A/Deputy Director, Office of Health Review; and
Brian Reeve, Morgan and Banks (Scribe)

CONSTITUTIONAL CENTRE

Aboriginal on Advisory Board

1787. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) Has the Premier, or the WA Constitutional Centre, received representations regarding the lack of an Aboriginal person on the centre's advisory board?

(2) How many representations have been received and from whom?

(3) What specific action, if any, has the Premier taken to rectify this oversight?

Hon N.F. MOORE replied:

(1) Yes.

(2) Four, letters from Mr Darryl Kickett, WA Native Title Working Group, Dr Geoff Gallop, Leader of the Opposition, Mrs J M M Hiller of Nedlands and Ms Sherry Saggers from the School of Social & Cultural Studies at Edith Cowan University.

(3) The Premier has indicated that the most appropriate time to consider the merits of introducing new members is when membership nominations fall due or if a vacancy becomes available.

GNANGARA REGIONAL PARK ADVERTISEMENTS

1807. Hon KEN TRAVERS to the Leader of the House representing the Premier:

With respect to the advertisements concerning the proposed Gnangara Regional Park -

(1) Was the Premier or anyone in his departments advised of the intention to run the advertisements?

(2) If so when and by whom?

Hon N.F. MOORE replied:

If the member could clarify to which advertisement he is referring, the Leader will endeavour to provide an answer.

WESTERN POWER'S ELECTRICITY CHARGES IN CARNARVON

1811. Hon KEN TRAVERS to the Leader of the House representing the Minister for Energy:

(1) Does Western Power offer off peak electricity prices to the Water Corporation or growers in Carnarvon?

(2) If not, why not?

Hon N.F. MOORE replied:

I am advised by Western Power:

(1) No.

(2) Western Power no longer has available an off peak tariff to new customers outside the South West Grid.

ELECTORATE OFFICES, SECURITY

1872. Hon N.D. GRIFFITHS to the Leader of the House representing the Premier:

(1) What budgetary provision has been allocated for the enhancement of security for electorate offices?

(2) Has any decision been made with respect to the need for an alarm mechanism to connect electorate offices to nearby police stations in cases of emergency?

Hon N.F. MOORE replied:

(1) An amount of $1.9m has been provided in the 1998/99 budget for electorate offices capital works projects, including any requirement for security enhancement.

(2) Security measures, determined following assessment by the Western Australian Police Service and the Department of Contract and Management Services, will be installed as standard features in all Parliamentary Electorate Offices. The features include a monitored, alarm system incorporating duress, intruder, smoke and fire detection facilities.

LAND TAX EXEMPTIONS

1902. Hon TOM STEPHENS to the Leader of the House representing the Premier:

Can the State Government give a categorical assurance that the exemption from Land Tax for properties used for education, welfare, medical or religious purposes will not be removed?

Hon N.F. MOORE replied:

The Government has no plans to remove any of those land tax exemptions where the land is not used for commercial purposes.

FLAGS

All Flags' Contract

1907. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

(1) What was the total cost of the contract with All Flags to provide 1 000 State flags to Members of Parliament?

(2) How many flags have been produced to date?

(3) What has been the cost to the Government to date on this contract?

(4) Were any penalties incurred for cancelling the contract?

(5) If yes, what were the penalties?

Hon N.F. MOORE replied:

(1) The total price tendered by All Flags for the supply of 1000 Western Australian Flags to Members of Parliament was $45,250.

(2) 173.

(3) $7,490.75.

(4)-(5) The contract was not cancelled. In view of supply problems, discussions were held with the Department of Contract and Management Services and the manufacturer sought permission to withdraw from the contract which was accepted without penalty.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Staff

1909. Hon MARK NEVILL to the Minister for Finance representing the Minister for the Environment:

(1) How many staff are employed in the Department of Environmental Protection ("DEP")?

(2) What are the names and positions of staff who have resigned since January 1, 1997?

(3) What unfilled vacancies currently exist in the DEP?

(4) Which officers and what positions are currently held in an acting capacity and for what period?

(5) What is the reason for each position being filled on an acting capacity?

Hon MAX EVANS replied:

(as at 18 June 1998)

(1) The Department of Environmental Protection has 233 staff employed. Please note that this figure includes employees on leave without pay and workers' compensation but does not include Environmental Protection Authority members (separately funded in budget), employees seconded out, external agency staff and consultants.

(2)-(5) The following tabled paper identifies resignations to private enterprise or otherwise outside the WA Public Service. [See paper No 1755.]

GOVERNMENT DEPARTMENTS AND AGENCIES

Millennium Bug

1920. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Commerce and Trade:

(1) Is the Office of Information and Communications ("OIC") within the Department of Commerce and Trade responsible for overseeing and managing the State Government's strategy to combat the Millennium Bug issue?

(2) Are Government departments and agencies required to forward Millennium Bug management plans to the OIC for ratification?

(3) If yes, what proportion of public sector agencies have forwarded to the OIC their policies for the control or avoidance of Millennium Bug type problems, both existing and forecast?

(4) Which agencies, if any, have failed to advise the OIC of their Millennium Bug strategy?

(5) Has legal opinion been sought with regard to the issue of public sector liability as a result of damages arising from equipment or service failure within agencies as a result of Millennium Bug style problems?

(6) If yes, what is the nature of the advice that the OIC or any other related department has been given?

(7) If not, why not?

(8) If legal advice has been sought, and indicates a potential liability issue for the State, what, if any, potential costs to the State may arise from any residual liability that the State may carry?

Hon N.F. MOORE replied:

(1) Yes.

(2)-(4) No. Agencies are requested to send quarterly status reports to the Office of Information and Communications.

(5) Yes.

(6) The advice has been provided to government agencies by the Crown Solicitor's Office that the failure of government equipment or services could incur a liability under certain circumstances.

(7) Not applicable.

(8) The potential costs to the State arising from its liability are undefined but could be significant. The best means of managing and reducing that liability is for the State to undertake its best endeavours to reduce and manage the risks arising from the problem. This is being done.

ENVIRONMENT

Voluntary Nature Covenants on Private Land Scheme

1926. Hon J.A. COWDELL to the Minister for Finance representing the Minister for the Environment:

(1) Can the Minister for the Environment confirm that a Voluntary Nature Covenants on Private Land Scheme has commenced?

(2) If so, which agency has responsibility for the operation of the scheme?

Hon MAX EVANS replied:

(1) CALM has commenced preparing the necessary guidelines and legal mechanisms for establishing voluntary covenants on private land. The scheme will be operational in the near future.

(2) Voluntary covenanting that protects private land with nature conservation value can be undertaken by a range of organisations including CALM, Agriculture WA and the National Trust of Australia (WA). The Government's voluntary scheme will be administered by CALM.

BUNBURY COASTAL PLAN PUBLICATION

1927. Hon BOB THOMAS to the Attorney General representing the Minister for Planning:

(1) How much did the Department of Planning and Urban Development publication "Bunbury Coastal Plan" released for "Public Comment March 1993" cost?

(2) Of that cost how much was for -

(a) consultants; and
(b) promotion,

of the plan?

Hon PETER FOSS replied:

(1) The publication was prepared with internal resources of the then Department of Planning and Urban Development (DPUD) and cost in the order of $3 600. The publication resulted from work by DPUD, the City of Bunbury and the Department of Marine and Harbours spread over several years which involved technical investigation and public consultation. There were four technical papers prepared, as follows:

1 City of Bunbury Ocean Beaches Coastal Management Plan - Technical Report - Prepared by Department of Marine and Harbours Report DMH P1/90 October 1990

2 Management of the Bunbury Back Beach Coastal System - Prepared by DPUD Coastal Branch, June 1992

3 Results of a Photographic Survey of Recreational Activity in the Bunbury Coastal zone - Prepared by DPUD Coastal Branch

4 Results of a Residential Survey of the Coastal Recreation in Bunbury's Coastal Zone - Prepared by Juliet Cole and Theresa Gepp (Honours Students, Department of Geography UWA) June, 1992

(2) (a) See (1).

(b) It is understood promotion of the publication was limited to distributing copies to the City of Bunbury and relevant group and individuals plus placing an advertisement in a local newspaper at a cost of around $300.

BUNBURY BACK BEACH PROJECT

1928. Hon BOB THOMAS to the Leader of the House representing the Minister for Commerce and Trade:

(1) How much was allocated to the Bunbury Back Beach project in the 1998/99 Budget?

(2) How much of that was for a geo technical survey?

(3) What is the itemised breakdown of how the geo technical budget will be spent?

Hon N.F. MOORE replied:

(1) $450 000.

(2) $200 000 (estimated).

(3) The nature of tasks to be undertaken for the Geo Technical Survey component include:

Assembly and analysis of all background coastal reports relevant to Bunbury Back Beach and Geographe Bay;

Analysis of winter storm activity and damage;

Drilling and testing of project area;

Probing works to develop geological profile and coastal model;

Investigation of alternative methods for coastal erosion management;

Costing of works;

Final Report.

The cost of each task has been estimated by LandCorp. Full details will be available following further assessment by the recently appointed project Steering Committee.

MINING

Acid Sulphate Soils Management

1932. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

(1) Is the Minister for the Environment aware of any projects in Western Australia, other than BHP's mine at Beenup, that entail disturbance of acid sulphate soils?

(2) Is there very little experience of management of acid sulphate soils in Western Australia?

(3) Given the extensive experience in New South Wales and Queensland of management of acid sulphate soils, will the Minister ensure that Western Australian projects encountering acid sulphate soils be required to operate under the national strategy for management of acid sulphate soils?

(4) If not, why not?

Hon MAX EVANS replied:

(1) Other than BHP's mine at Beenup, I have not been made aware of any other operational projects at this scale which entail disturbance of acid sulphate soils.

(2) Yes.

(3)-(4) A National Strategy for the Management of Acid Sulphate Soils has not been finalised.

NINGALOO MARINE PARK

1933. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

In respect of the management of Ningaloo Marine Park -

(1) What monitoring is carried out with respect to anchor damage on Ningaloo Reef?

(2) How often is anchor damage assessed?

(3) What action, other than the distribution of educational leaflets, is taken to prevent or minimise the anchor damage?

(4) What is the estimated extent of anchor damage to the reef?

(5) Will the Minister for the Environment require the installation of permanent moorings in suitable locations to prevent further anchor damage?

Hon MAX EVANS replied:

(1) A 1998 assessment by CALM of the nature and patterns of human usage in the Ningaloo Marine Park identified three areas where boating activity is relatively high. These are the southern end of Bills Bay, adjacent to the Coral Bay townsite, and at the boat mooring areas at Tantabiddi and Bundegi. A preliminary assessment of the impacts of boating activities on sensitive marine habitats at these sites indicates that damage, some of which is presumably from anchoring, is confined to a localised area in southern Bills Bay. In addition, no obvious signs of anchor damage to sensitive marine habitats were recorded at 21 permanently-marked, relocatable monitoring sites along the 260 km of the marine park.

These sites were established by CALM, in collaboration with the Australian Institute of Marine Science (AIMS), in May 1998 as Phase I of a comprehensive monitoring program to monitor the health of the marine communities along the entire length of the marine park. This program complements the historical location-specific monitoring programs undertaken by CALM since the mid-1980s. Phase II, to be undertaken by AIMS and CALM in late 1998 and early 1999, will involve further monitoring of about 2 square kilometres of reef around each back-reef monitoring site and Phase III, to be undertaken by CALM in 1999, will concentrate on establishing further baseline monitoring sites at existing and future areas of high human activity in the marine park.

These initiatives will provide a comprehensive benchmark to ensure human activities, including anchoring, that potentially impact on the marine habitats of Ningaloo Marine Park are regularly monitored and appropriately managed.

(2) Apart from the formal monitoring programs referred to in the answer to (1), site assessments are also made, where appropriate, if reports of anchor damage are received at CALM's Exmouth office. In the past, almost all reports of anchor damage to sensitive marine habitats have related to the southern Bills Bay area.

(3) Educational programs are used as the primary strategy to reduce damage to sensitive habitats from random anchoring of individual boats throughout the marine park. In areas where there is, or likely to be in the future, large numbers of boats in confined areas, and potential for extensive anchor damage to sensitive habitats, other strategies in addition to education are also being developed. In this context, CALM is currently developing a mooring and anchoring policy to ensure significant damage to sensitive habitats does not occur from boating activities.

This process will identify "no anchoring" (except for safety reasons) and mooring areas, as well as examining the role of both private and public moorings in the marine park. In relation to the specific boating issues in Bills Bay, the Department of Transport, in collaboration with CALM, is currently developing a proposal to build a boating facility that will relocate much of the boating pressure from the southern Bills Bay area to a more suitable nearby location. When implemented, this facility will significantly reduce anchor damage to sensitive habitats in the Bills Bay area as well as reducing boat congestion and improving safety for swimmers and beach users.

(4) As stated in the answer to (1) three areas have been identified where there is a significant number of boats concentrated in relatively confined areas on a regular basis. Potentially significant damage to sensitive habitats from anchoring is confined to these sites with actual damage only being evident at one site, in a relatively small area (less than two hectares) in southern Bills Bay. The other two sites at Tantabiddi and Bundegi have large areas of sand where anchoring can occur with no damage to sensitive habitats.

(5) As stated in the answer to (3), the issue of permanent moorings, both private and public, is currently being considered by CALM in the development of a policy on mooring and anchoring in marine conservation reserves.

In addition, as current significant anchor damage to sensitive marine habitats in the Ningaloo Marine Park is confined to the southern Bills Bay area only, and is currently being addressed through other means, it would seem premature at this stage to require the installation of permanent moorings. However, in the longer term, if I am advised by CALM or the Marine Parks and Reserves Authority that this is the most appropriate option, I may require the installation of permanent moorings.

ENVIRONMENTAL PROTECTION ACT

Section 38(1)(b)(ii) Referrals

2002. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

In respect to section 38 of the *Environmental Protection Act 1986* -

(1) What processes are followed in relation to all referrals under section 38(1)(b)(ii) of the Act?

(2) Is there a criteria for referrals made under section 38(1), or any part thereof, of the Act?

(3) If so, will the Minister for the Environment table that criteria?

(4) How does the Department of Environmental Protection/Environmental Protection Authority deal with referrals made under section 38(1)(b)(ii) of the Act?

(5) At what stage in the process is a referral established is it the date -

(a) of receipt of the letter of referral;

(b) of the evaluation of the referral; or

(c) on which the referral appears in *The West Australian* newspaper?

(6) Once a referral, as defined above, of a project, development or activity is made what are the requirements of any such proponent of a project, development or activity, in proceeding with any works prior to any appeal in relation to any referral made under section 38(1), or any part thereof, of the *Environmental Protection Act 1986*?

Hon MAX EVANS replied:

(1) When a referral is received under Section 38 (1) (b) (ii) of the Act it is date stamped and entered onto the Department of Environmental Protection's (DEP) database and checked to ensure it has not already been referred under Section 38 (1)(a) or (b). It is then evaluated by the DEP and advice is provided to the Chairman of the Environmental Protection Authority (EPA) who decides whether the proposal should be assessed, and if so, the level of assessment. Frequently with these referrals more information is required to enable the level of assessment to be set and this is obtained from the proponent or other sources.

(2) Yes.

(3) The criterion for a referral are that:- the proposal meets the definition of a "proposal" under the Environmental Protection Act, which is a "project, plan, programme, policy, operation, undertaking or development or change in land use, or amendment of any of the foregoing, but does not include a scheme"; that it is likely to have a significant effect on the environment; and it has not been previously assessed under the Environmental Protection Act. The potential for the proposal to have a significant effect on the environment is evaluated based on a defined list of environmental factors. This list can be obtained from the DEP and is outlined broadly in the EPA's Administrative Procedures for Environmental Impact Assessment, 1993.

(4) Refer to (1) above.

(5) A referral is established on the date of receipt of the letter of referral provided it meets the criterion referred to in answer (3), or at a later date, if additional information is required to confirm it meets the criterion and enable the EPA to make its decision.

(6) Once a decision has been made by the EPA on whether a proposal will be assessed or not, the proponent and any decision-making authorities are notified. Section 41 provides that decision making authorities are not to make any decision which would allow a proposal to proceed until any appeals have been determined, and where a proposal is being assessed, the EPA has completed its assessment and a final authority has been issued by the Minister for the Environment.

QUESTIONS WITHOUT NOTICE

ANTI-CORRUPTION COMMISSION

Independent Inquiry into Complaints against ACC

1798. Hon TOM STEPHENS to the Attorney General:

(1) Will the proposed independent inquirer to look into complaints against the Anti-Corruption Commission be appointed from the judiciary?

(2) What is the proposed duration of the appointment and the reasons for that duration?

(3) What categories of complaint are proposed to be dealt with?

(4) Has the Attorney General tendered advice as to whether legislative change is required to enable the recommendations of the inquirer to be binding on the ACC and to enable the inquirer to have access to ACC operational matters?

I put that question to the Attorney General because of his responsibilities to the judiciary.

The PRESIDENT: One problem with the question is that the Attorney General is not responsible for the Anti-Corruption Commission. Unless the Attorney General can find something in it that belongs to him, the question is out of order.

Hon PETER FOSS replied:

Nothing in these questions should be directed to me.

Hon Tom Stephens: What about the judiciary?

President's Ruling

The PRESIDENT: The question is out of order. It is directed to a Minister who does not have responsibility for that portfolio.

FREMANTLE PORT AUTHORITY

Defamation Action against Member for Armadale

1799. Hon TOM STEPHENS to the Minister for the Transport:

(1) What legal costs have been incurred by the Fremantle Port Authority with respect to the unprecedented defamation action against the member for Armadale?

(2) Was the Minister's advice or authority sought by the FPA in relation to this matter; if so, when?

Hon E.J. CHARLTON replied:

(1)-(2) The member's question refers to a disgraceful outburst in public, outside the Parliament, accusing the Fremantle Port Authority members of having some sort of interaction with Patrick Stevedores. That is the basis of this question.

The PRESIDENT: Order! I do not know too much about the case but I warn the Minister about the sub judice rule. If a civil matter is before the courts, the Minister must take that into account.

Hon E.J. CHARLTON: I do not know if anything is before the courts. I understand the member for Armadale has not been home when an attempt has been made to serve the summons. She seems to be everywhere else. I do not know whether they have tracked her down.

Hon John Halden interjected.

Hon E.J. CHARLTON: Hon John Halden would know something about it.

Hon John Halden: I know nothing.

Hon E.J. CHARLTON: I suggest he knows a fair bit about it.

The PRESIDENT: Order!

Hon E.J. CHARLTON: I cannot find that answer.

The PRESIDENT: Order! The Minister has given a preamble to his answer. If he finds the answer before the expiration of question time and lets me know, I will have it incorporated.

LEGAL AID FUNDING

Senate Inquiry Report

1800. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the third report of a Senate committee's inquiry into the Australian legal aid system.

(1) Does the Attorney General accept that WA has suffered the worst cut in commonwealth legal aid funding, which has resulted in $5.7m per annum in real terms being slashed from the Commonwealth's contribution to WA's legal aid funding - a 40.7 per cent cut, and almost 10 per cent above the national average?

(2) Does the Attorney General accept that WA will receive $28.3m less over six years under the Howard Government than if the 1995-96 levels had been maintained?

(3) Has the Attorney General still not reached final agreement with the Commonwealth on the funding of legal aid?

(4) When will the Attorney General reach agreement with the Commonwealth and what is the reason for the continued delay?

Hon PETER FOSS replied:

(1)-(2) I need to check the figures with regard to these questions to see whether I accept them.

(3)-(4) The Government has an agreement, but the Legal Aid Commission Act must be amended before this State can charge the Commonwealth for providing the service. At the moment Western Australia is able only to recoup its costs. Queensland has entered into a purchaser-provider agreement under which it can charge for the service provided. Western Australia provides the Legal Aid Commission, but the Commonwealth makes no contribution to it. It contributes only the actual costs incurred. Western Australia has a substantial agreement, but I would like to put this State in a similar position to that of Queensland so that it can recover more under that agreement.

ENVIRONMENTAL PROTECTION AUTHORITY

Bulletin No 652, Recommendation 5

1801. Hon CHRISTINE SHARP to the Minister representing the Minister for Environment:

I supplied the Minister with three versions of recommendation 5 of the Environmental Protection Authority's Bulletin No 652 of October 1992. These three versions disclose that recommendation 5 was altered, firstly, by a stick on label, and then by reprinting. The alteration meant that the amount of old growth Karri recommended to be conserved was constrained. Who made the alteration to recommendation 5 and under whose authority?

Hon MAX EVANS replied:

I thank the member for some notice of this question. As the answer will require some research, I request that the question be placed on notice.

ECONOMIC PEST CONTROL

Prosecution Dropped

1802. Hon NORM KELLY to the Minister representing the Minister for Fair Trading:

(1) Which departmental officer was responsible for the decision to drop the prosecution of Economic Pest Control?

(2) On what legal opinion was this decision based?

(3) Will the Minister table this information?

(4) Was the involvement of Neil Stockton a determining factor in deciding to drop the prosecution?

(5) Have any other prosecutions based on investigations involving Neil Stockton also been dropped?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Consistent with the formal warnings and prosecution policy of the Ministry of Fair Trading regarding approval to initiate prosecution actions, the acting executive director was responsible for the decision not to prosecute Economic Pest Control.

(2) The decision was based on the legal opinion of a ministry legal officer, which was provided after a detailed examination of the evidence gathered.

(3) There is no basis for tabling the information that relates to a decision about operational matters by the Ministry of Fair Trading.

(4) While Mr Stockton assisted in gathering some part of the evidence, the Ministry of Fair Trading did not proceed with the prosecution because a breach of the legislation could not be successfully established at trial.

(5) No, not by the ministry. One prior prosecution commenced by the ministry was formally taken over by the Director of Public Prosecutions and later dropped.

WESTERN AUSTRALIAN SPORTS CENTRE TRUST

Workplace Agreement

1803. Hon KIM CHANCE to the Minister for Sport and Recreation:

(1) Can the Minister confirm that a compulsory workplace agreement signed between the Western Australian Sports Centre Trust and one of its employees has been refused registration because the Commissioner of Workplace Agreements was not satisfied that the employee genuinely wished to have the compulsory agreement registered?

(2) If so, in the light of that event, will the Minister now direct agencies within his portfolio to desist from applying a policy of compulsory workplace agreements to new employees?

Hon N.F. MOORE replied:

I thank the member for no notice of this question!

(1) No.

(2) I will check out the circumstances of the matter raised by the member to ascertain whether they are accurate, and will take any action that is necessary as a result of that.

ABORIGINAL AFFAIRS DEPARTMENT

Commonwealth Funding for Link-up Projects

1804. Hon HELEN HODGSON to the Minister representing the Minister for Aboriginal Affairs:

(1) Have officers of the Aboriginal Affairs Department recently participated in meetings regarding the allocation of commonwealth funding for link-up projects in Western Australia? If so, when and where were these meetings held?

(2) If not, have any meetings been scheduled regarding the allocation of commonwealth funding for link-up projects in Western Australia?

(3) Has it been determined -

  (a) how much funding will be available; if so, what is that amount?

  (b) how many services will be established and where will they be located?

(4) Will the Kimberley link-up service receive funding; if so, how much?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) (a) Yes.

(b) An initial briefing session was convened by the Department of Family and Children's Services for relevant government and community representatives on Wednesday, 10 June 1998 at the Metro Inn Apartments in Nile Street, East Perth. This provided an opportunity for discussion regarding appropriate reunion and counselling services for Western Australians.

(2) Not applicable.

(3) (a) The Commonwealth Government has allocated $11.25m to establish a national network of family link-up services to assist individuals affected by past policies of forcible removal. It is not known what will be the allocation for Western Australia.

(b) The Commonwealth Government has stated it will fund one link-up service in each State. However, a consultant has recently been appointed by the Aboriginal and Torres Strait Islander Commission to review existing link-up services, recommend best practice models and provide advice on the allocation of funding to each State.

(4) Funding decisions will be made by ATSIC at the completion of the consultant's review. It is not known whether the Kimberley link-up service will receive funding.

CARAVAN PARK CLOSURES

1805. Hon J.A. COWDELL to the Minister for Tourism:

Given the likely closure of up to nine caravan park sites and popular tourist destination sites around Western Australia and the imminent closure of the Peninsular Caravan Park which occupies crown land in Mandurah -

(1) Has the Government formulated a strategy that will secure the continued availability of this low cost holiday option for average Western Australian families?

(2) Has the Government identified any alternate crown land that might be made available for a new caravan site within the immediate vicinity of the current peninsular site or elsewhere in the city of Mandurah?

Hon N.F. MOORE replied:

(1) The Government is supportive of low cost tourist accommodation establishments being available for Western Australian families. Through the Western Australian Tourism Commission, the Government encourages local government authorities in their town planning schemes to zone future caravan parks specifically as "caravan parks and associated activities" rather than generally as "tourist accommodation" so that sites remain available as low cost accommodation. If those areas are zoned "caravan parks and associated activities" it is less likely that the land will be redeveloped for more expensive resort or hotel style accommodation, thus providing some certainty to the continued availability of low cost accommodation.

I am advised that the number of parks and sites has risen significantly over the past 15 years. According to the Australian Bureau of Statistics, the number of caravan parks increased by 30 per cent, from 244 to 318; powered sites in those parks increased by 53 per cent, from 13 024 to 19 912; unpowered sites increased by 44 per cent, from 4 042 to 5 806; on-site vans increased by 39 per cent, from 1 542 to 2 139; and cabins, flats and so on increased by 336 per cent, from 497 to 2 169.

It may also be of interest that the number of average bays per caravan park increased from 78 to 94. The average occupancy for 1997 was 42 per cent which does not indicate a shortage of caravan parks or sites.

(2) The member is invited to refer this question to the Minister for Lands as it does not relate to my portfolio of Tourism.

PERPETRATOR COUNSELLING FUNDING

1806. Hon MURIEL PATTERSON to the Minister representing the Minister for Family and Children's Services:

What funding is available for perpetrator counselling in Western Australia and which regional centres, if any, have programs in place?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The following annual funding is available for perpetrator

counselling in Western Australia. In respect of the metropolitan service providers, funding for perpetrator services is provided along with funding for related victim counselling services: Metropolitan $130 789, Mandurah $50 000, Geraldton $47 000, Kalgoorlie $47 000, Narrogin $47 000, Albany $117 000, Bunbury $47 000 and Port Hedland $47 000.

Programs in the metropolitan area are in place. Contracts for the provision of perpetrator counselling services in six of the seven regional centres is completed with service providers in the early stages of developing their services. A contract has not yet been awarded in Port Hedland because of lack of proposals from service providers.

MEMBER FOR GERALDTON

Support for One Nation

1807. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

Now that the Premier has had an opportunity to read the story which appeared on the front page of *The Geraldton Guardian* two weeks ago under the headline "Bloffwitch says Hanson is right" -

(a) Has the member for Geraldton been reprimanded for supporting One Nation, as he told listeners of the ABC's "AM" program on Friday before last that he might be?

(2) Does the Premier agree with the member for Geraldton that some of One Nation's policies should be adopted by the Liberal Party?

The PRESIDENT: I am in two minds about this question. I am not sure whether it impacts on, or is part of, the Premier's portfolio. Can Hon Ljiljanna Ravlich indicate to which area it relates?

Hon LJILJANNA RAVLICH: The whole of government.

The PRESIDENT: It seems to be very much a party matter.

Hon LJILJANNA RAVLICH: Multicultural and ethnic affairs and the whole of government.

The PRESIDENT: The member can have only so many goes at the lucky dip and she has missed out on three goes.

Several members interjected.

The PRESIDENT: Order! As I heard the question, it deals with party matters and it did not appear to be specific to a portfolio. In that case it is out of order.

Point of Order

Hon TOM STEPHENS: I would like you to reconsider that decision, Mr President, particularly if the Minister has an answer ready, as he appears to have. The Premier appears to be accepting responsibility for the whole of government approach in handling these questions. I hope he will not be limited in any way by a ruling in that direction from the Chair.

The PRESIDENT: Having heard the question I had to ask myself if it comes within the Minister's area of responsibility. Standing Order No 136(a) reads -

> Questions may be put to:
>
> (a) Minister relating to public affairs with which he is connected, to proceedings in the Council, or to any matter of administration for which he is responsible;

I do not know where the Premier's responsibility comes in. If it is a multicultural and ethnic affairs matter, that is for the Minister representing that person in this place. I do not think that is the Premier. The question must be connected to the Minister's area of responsibility.

Hon TOM STEPHENS: The Premier has gone on the record with comments in his capacity as Premier about One Nation. In that capacity, the Minister representing the Premier in this place is being asked to respond on behalf of the Premier to those issues in his capacity as Premier. All I ask, Mr President, is that you do not limit the capacity of the Premier to respond to this question through his Minister in this place.

The PRESIDENT: I am not limiting the capacity of the Premier. I am responding to the way the question was put. If members spent a bit more time reading the standing orders, and framing their questions in accordance with them, they would not have some of the problems encountered in this place every day. If the member brings that question to me, I will consider it carefully.

Questions without Notice Resumed

INTERNATIONAL INVESTIGATION AGENCY

1808. Hon E.R.J. DERMER to the Minister for Transport:

Some notice has been given of this question. The notice may have been in the name of Hon Tom Stephens. In relation to the investigations carried out for the Commissioner of Main Roads by the International Investigation Agency Pty Ltd -

(1) Has the cost of this investigation, which was first estimated at $5 000, now blown out to over $50 000, and can further accounts be expected?

The PRESIDENT: Order! I will be raising a matter in a moment. I hope that the Leader of the Opposition is not moving out of the Chamber because of the matter I will raise.

Hon Tom Stephens: No, Mr President. I wish to speak to you.

The PRESIDENT: Good.

Hon E.R.J. DERMER: It continues -

(2) If yes, when will this investigation, which is costing taxpayers about $2 500 per week, be concluded?

(3) To this stage of the investigation, have any Main Roads officers been accused of leaking documents?

(4) If yes, how many officers have been accused and what action has been taken against them?

The PRESIDENT: Order! The question is out of order on the basis that the member on whose behalf the member is asking the question is in the Chamber.

Points of Order

Hon TOM STEPHENS : The member is asking a question in his own right.

The PRESIDENT: I understood that he was asking it on the Leader of the Opposition's behalf.

Hon TOM STEPHENS: No, Mr President. What he said was that this question may have been originally submitted in my name but he has now taken responsibility for the question and is asking it in his name. These issues arise by virtue of the way you are calling for questions from the Opposition. You do not provide members on this side of the House with the opportunity of asking questions in the order we would like in question time, as is done in most other Parliaments. As a result -

Several members interjected.

The PRESIDENT: Order!

Several members interjected.

Hon TOM STEPHENS: Will you shut up, leader!

The PRESIDENT: Order! The Leader of the Opposition will come to order. I ask him to withdraw that comment.

Hon TOM STEPHENS: I withdraw the comment.

Mr President, as a result of the way questions are called in this place, the Opposition of necessity before question time starts allocates questions to various members and then reassigns the names that have previously been supplied at 12.00 pm, so the Minister will have on his file a question to which the name of Hon Ed Dermer is allocated. It is his question for which he accepts responsibility. I ask you not to rule it out of order. He is not asking the question on my behalf.

President's Ruling

The PRESIDENT: The rules of the House recognise the capacity of one member to act for another in the giving of notices, the moving of motions and the like. However, that ability to act as a proxy arises only when the member in whose name the motion or other matter is reached in the course of business is absent from the Chamber at the material time. If an oral question for which notice is required or has been given stands in one member's name, it is not open to another member to ask that question as if it were his or her own when the member in whose name notice has been given is present in the Chamber and capable of asking the question.

Hon TOM STEPHENS: That point of order applies, as you would understand, Mr President, to the process when notice is given in the House. This is not a question of which notice has been given in the House. This question has been supplied through the processes of the courtesies of this place and has been submitted in the name of Hon Ed Dermer.

The PRESIDENT: That is not what I understood at all.

Hon N.F. Moore: That is not what the member said.

Hon TOM STEPHENS: That is the situation.

The PRESIDENT: I have heard the Leader of the Opposition's point of order. He does not have a point of order. I ask that the question be brought up to the Chair so that I can see in whose name it is asked.

Hon E.R.J. DERMER: Could I briefly explain the situation? The question is being asked by me.

The PRESIDENT: In whose name is the question?

Hon E.R.J. DERMER: The question has my name now. The reason I mentioned Hon Tom Stephens to the Minister is that the earlier informal notice of the question may have had Hon Tom Stephens' name on it. I mentioned that as a matter of courtesy and to assist the Minister to find the answer. The question is now being asked by me. I take full responsibility for the question.

The PRESIDENT: It does not matter whether the member takes responsibility for the question. If the member acts as a proxy, he can do so only if the member for whom he is acting is not in the House. As I heard the question, the member said he was asking a question on behalf of Hon Tom Stephens.

Hon E.R.J. DERMER: I asked the question of the Minister. I said that some notice had been given of the question and that notice may have been in the name of Hon Tom Stephens. In no way am I a proxy, as I understand it. I am asking the question on my own behalf.

The PRESIDENT: I have heard the member and I understand what he is getting at. I have just given members a ruling in respect of proxies asking questions on behalf of other members. As a matter of administration, it is up to members to work out how they address their questions. If anyone stands in this House and says that he or she is acting for another member who is in the House at the time, that question will not be allowed on the basis of it being out of order.

Hon KEN TRAVERS: The member asked a question to a Minister who is the responsible Minister. He is not being asked the question in a representative capacity, so I think that the member would be entitled to ask the question during this question time of that Minister.

The PRESIDENT: The member can think what he likes but he is wrong.

Hon E.R.J. DERMER: I want to make it perfectly clear that I am acting as a proxy for no-one.

The PRESIDENT: I realise that. I am dealing with as many points of order as are being raised before I can get back to dealing with the member's question. Are there any other points of order on this matter?

Hon JOHN HALDEN: I have no point of order. I have a question.

The PRESIDENT: The member is next on the list, but I do not know whether we will get to him before we finish dealing with points of order.

Several members interjected.

The PRESIDENT: Order, members! This is serious. Certain rules, regulations and procedures must apply, with respect, if we are to have an orderly flow of business through the House. I have given members a ruling on proxies acting on behalf of other members in this House. That ruling stands. If members do not like it, they can object to it. However, in respect of the question asked by Hon Ed Dermer, he has given me an assurance that he is not acting as proxy, notwithstanding the words that I thought he used. In that case I am prepared to allow this question. However, the rule stands.

Questions without Notice Resumed

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

Hon Max Evans: Which member?

Hon E.J. CHARLTON: Just to clear up the situation, Minister's have a filing system with the name of every member of the opposition parties. When a member stands and says that a question is, for example, to the Minister for Transport, I flick to the name of Hon Ed Dermer, in this case, and open the file at his section. When Hon Ed Dermer said that the question may be in the name of Hon Tom Stephens, I immediately flicked to Hon Tom Stephens' section and went through the many questions on file in his name. I could not find the question. While the points of order were being taken, I went back to the section for Hon Ed Dermer and found the question under his name. If Hon Ed Dermer had simply got on with his question in the first place, he would have had the answer a quarter of an hour ago.

The PRESIDENT: It gave me an opportunity to let the House know where members stand with proxies.

Hon E.J. CHARLTON: From our point of view it makes it easier if the question is in the name of the person asking the question.

(1) There has been no cost blowout. Main Roads' initial expectation was that the company would be able to complete the exercise within a short period of time at an estimated cost up to $5 000. However, the scope of the investigation proved to be more complex and time consuming than originally expected.

Hon E.R.J. Dermer: That is ridiculous.

The PRESIDENT: Order! Let us get the answer.

Hon E.J. CHARLTON: That is because it is a ridiculous question. The increase in anticipated cost reflects the increased work required.

(2) International Investigations Agencies' final reports have now been received.

(3) Several officers were advised that they were suspected of unauthorised release of information.

Hon Bob Thomas: Intimidation!

Hon E.J. CHARLTON:

(4) Main Roads is preparing a letter to one officer outlining the allegations against the officer and providing an opportunity to respond to the allegations.

ONE NATION

1809. Hon JOHN HALDEN to the Minister for Tourism:

I refer to yesterday's *The Australian Financial Review* which reported that international tourism operators fear a possible backlash over One Nation with its performance in the recent Queensland election attracting unwanted headlines in many Asian newspapers.

(1) Is the Minister aware of such headlines or the fears of the Australian Tourist Commission, Tourism Council Australia and the Tourism Taskforce about the implications of the Hanson factor?

(2) Does the Minister accept the almost unanimous conclusion of respondents to the survey commissioned by the tourism task force that One Nation's policies would have an adverse impact on tourism?

(3) What steps is the Government taking or intending to take to address the fears of the key bodies of the tourism industry and to ameliorate the possible negative impact on the tourism industry as a result of One Nation's success, thanks to coalition preferences in the seats in Queensland?

Hon N.F. MOORE replied:

(1) Regrettably, I do not have a photographic memory. Could Hon John Halden provide me with a copy of the question?

Hon John Halden: Sorry.

Hon N.F. MOORE: Hon John Halden could have given me notice like some other people and I could have provided a considered response.

Hon E.J. Charlton: He could even put it in his name.

Hon Bob Thomas: Hon Joe Berinson used to be able to do it.

Hon N.F. MOORE: Hon Joe Berinson was greater than all of us put together, including Hon Bob Thomas.

Hon N.D. Griffiths: The Minister is weak!

Hon Bob Thomas interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: I have not read yesterday's *The Australian Financial Review*. I spent yesterday in Karratha at a cabinet meeting and it was not available to me there. I am aware of the fears of the Tourism Taskforce. I have read some of the comments of Mr Brown junior. Mr Brown junior heads the Tourism Taskforce. He is the son of the former federal Labor Minister for Tourism, John Brown, who is best known for his activities on tabletops, as I remember.

Several members interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: Having listened to that individual comment about the tourism industry on a few occasions, I suspect he is coming from a slightly political point of view, which is regrettable. When one is running a thing called a Tourism Taskforce, which is portrayed to be a national body representing the interests of tourism, it is better if one does not take a political point of view. That is unnecessary. The Tourism Council of Australia has a former politician from the other side, the Liberal Party - Hon Bruce Baird - as its CEO. I do not hear him making political comments other than to say that he is concerned about the alleged impact of the Hanson factor.

(1) I base my understanding of what the Hanson factor is doing to tourism in Western Australia only on the information and on the people coming here. The information I have is that the number of tourists coming to Western Australia from Singapore - I think this is in the 12 months to the end of April - has increased by 9 per cent in spite of the Asian crisis. The number of people coming from Indonesia has dropped dramatically. I put that down to the problems in Indonesia rather than the Hanson factor. The number of tourists coming from Japan has remained reasonably constant. Western Australia does not have a great number of tourists from Japan. However, we will begin a very significant campaign in Japan in the next few months promoting Western Australia as part of the Australian tourism destination. Malaysia is a significant source of tourists for Western Australia and if my memory serves me - if Hon John Halden had given me some notice I could have gotten the exact figures - we are breaking about even with tourists from Malaysia bearing in mind that it is also being affected by the crisis. The figures do not indicate a big backlash against some Hanson factor but they do indicate a problem with the Asian financial crisis and the effect that is having on people travelling out of Asia.

(2)-(3) Until it can be demonstrated that the Hanson factor is having an impact on tourists coming to Australia, there is not a lot that can be done about it. If members want the Government to run around and say we do not agree with Pauline Hanson's views on immigration, it has been said countless times. I do not agree with her views on immigration. If my saying that will make tourists come to Australia, I will say it a thousand times.

Hon Kim Chance: I can hear the phones ringing from here.

Hon N.F. MOORE: Of course. All this nonsense about coalition preferences is political rhetoric and deserves to the treated as such.

PRISON INMATES

1810. Hon GIZ WATSON to the Attorney General:

Some notice of this question has been given.

(1) Will the Attorney General provide the percentage increase in prison inmate rates over the past four years?

(2) Will the Attorney General provide a breakdown of prisoner ages; for example, 18-25, 26-35, 36-45, etc?

(3) Will the Attorney General provide a statistical breakdown of the sorts of ailments for which medical doctors in prisons are consulted?

(4) Will the Attorney General provide a breakdown of the ages of people who died in custody over the past four years?

(5) Will the Attorney General provide the causes of death of prisoners who have died in custody over the past four years?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) 1994-95 - plus 1.21 per cent;
1995-96 - plus 5.29 per cent;
1996-97 - plus 0.26 per cent;
1997-98 - plus 0.73 per cent.

(2) Breakdown of prisoner ages as at 31 May 1998:
16-17 - 1;
18-19 - 156;
20-21 - 256;
22-24 - 326;
25-29 - 531;
30-34 - 362;
35-39 - 239;
40-44 - 145;
45-49 - 98;
50 plus - 173. One prisoner is over 90.

(3) General medical practitioners provide a service as near to the community standards as can be achieved within the confines of a security organisation. An actual breakdown of illnesses by prisoner is not readily available and would require a manual extraction of information from each prisoner file. I am not prepared to devote resources to carry out this task. The major types of problems include: general health matters, often coming to attention for the first time due to the Ministry's medical screening; referral to medical specialists; behavioural disturbances and emotional upsets; suicidal behaviour; depression; other psychiatric conditions; attention deficit disorders; drug withdrawal and rehabilitation; hepatitis C; an increasing proportion of frail, geriatric prisoners; deliberate self harm; assault; sporting and industrial accidents; gynaecological and obstetric conditions; dealing with poor compliance with treatment regimes and excessive prescription drug seeking behaviour of prisoners.

(4) 18-19 - 4;
20-21 - 2;
22-24 - 8;
25-29 - 4;
30-34 - 5;
35-39 - 2;
40-44 - 4;
45-49 - 5;
50 plus - 3;
total - 37.

(5) Suicides and apparent suicides (not yet determined) - 24;
Accident, self inflicted - 1;
Accident, not self inflicted - 3;
Unlawful killing - 1;
Natural causes - 9;
Total - 37.

TRANSCOM GAS DIRECT INJECTION ELECTRONIC FUEL INJECTION TECHNOLOGY

1811. Hon J.A. SCOTT to the Minister for Transport:

(1) Is the Minister aware that Mr Bernie Masters, the member for Vasse, sent a message to members of Parliament criticising the Minister for not giving a fair test to the Transcom gas direct injection electronic fuel injection technology and asking for a fair trial of the Transcom technology at the earliest possible stage of the 12 year contract to purchase the bus fleet from Mercedes?

(2) Will the Minister agree to further tests being conducted using Transcom components?

(3) Do the terms of the contract with Mercedes allow non-Mercedes components to be used on its buses?

Hon E.J. CHARLTON replied:

(1)-(3) Transcom has two buses in Canberra on which its technology is fitted. I understand it has two buses fitted with its technology in Hungary. Nowhere else in Australia or around the world has anybody taken on Transcom's technology.

Hon Norm Kelly: What about Sydney? I believe it has taken on Transcom.

Hon E.J. CHARLTON: I am quoting from Transcom. As I understand it, it has four buses outside Western Australia. Some years ago Transcom first asked me to assist it in setting up a road trial for its technology. As a consequence of that, I put it to the Government, which agreed to have Transcom's technology fitted to MetroBus or Transperth vehicles. The vehicles were all "in use" vehicles, therefore the technology was fitted to second-hand motors. Members will know the story about fitting 100 buses with this technology. Initially, 10 buses were to be fitted and when those 10 were on the road we would assess their operation. It was in both our interests that they should run successfully. Transcom was ecstatic that that was happening because no-one else in Australia or the world was prepared to trial its technology. That is why I think it has done very well from this Government giving it every assistance to get up and running. It is not up to the Government to prove the technology; it is up to Transcom. We are merely putting in place an opportunity for that to happen and giving the company every encouragement.

With the new bus fleet, Transcom has been conducting negotiations to use its technology on new vehicles. Mr Masters, and many other members of Parliament who have an interest in this matter, suggested that we fit new buses with the technology. We are happy to do that. However, the question that we have asked Transcom is, where does that leave the company at the end of 12 months, two years or whenever? What it has is its technology on someone else's vehicle out on the roads. I have already put in place a group, under the chairmanship of Mr Brian Bult, who runs a motor transmission and engineering operation for Voith Australia Pty Ltd. Mr Bult has an independent and well researched capacity to deliver an assessment, along with the other people in that group. However, in the long run that assessment will not benefit Transcom. Therefore, I suggested that Transcom become involved with Mercedes and vice versa to ensure that its technology was used and trialled in a way that could produce some long lasting benefit to the company in order to get that technology marketed around the world, because it will not reach the rest of the world by being put on a few Transperth buses. We are doing everything we can to assist Transcom to get its technology up and running.

LEGISLATIVE COUNCIL

Legislative Program and Sitting Times

1812. Hon TOM STEPHENS to the Leader of the House:

I ask the Leader of the House to formally advise the House as to the intentions of the legislative program and the sittings of the House this week?

Hon N.F. MOORE replied:

The House has reached a situation where, having dealt with two orders of the day already, we have now to deal with two appropriation Bills, the School Education Bill, the Workers' Compensation and Rehabilitation Amendment Bill and disallowance motion No 1. If they were to be dealt with this evening or between now and tomorrow morning it would be possible for the House to rise sometime between now and tomorrow morning, or sometime today, Tuesday. I am happy to try to expedite the processes tonight to ensure that that happens. However, of course, that is in the hands of members.

The House cannot rise until such time as we have dealt with the appropriation Bills. These Bills provide an occasion for members to speak on any matter they wish. To be fair, we have been considering the budget papers for a few weeks now and I notice that about eight members have spoken on that and a few have spoken now on the appropriation Bills. We need to complete the appropriation Bills and deal with the School Education Bill - if I can count right it will be decided shortly to send it somewhere. The Workers' Compensation and Rehabilitation Amendment Bill needs to be dealt with in Committee. Because of the nature of disallowance motions, my understanding is that once the House rises today, if we have not dealt with disallowance motion No 1, it is disallowed automatically at prorogation. The Government is not supportive of that proposition; therefore, it will be necessary to deal with that also before the House rises.

In the event that we return tomorrow, we will deal with the other disallowance motions, many of which will be discharged; however, a few others will have to be dealt with if they are not discharged. If members want to complete the process of the House sometime between now and tomorrow morning, it is in their hands. If there is anything I can do to encourage them, let me know.