WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE COUNCIL

Wednesday, 22 October 1997

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 4.00 pm, and read prayers.

PETITION - MINING

Lake Jasper

Hon J.A. Scott presented the following petition bearing the signatures of 208 persons -

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

We, the undersigned respectfully advise Parliament that we reject the proposal to mine mineral sands on land adjacent to Lake Jasper for the following reasons:

The site contains a wetland ecology which could not be properly rehabilitated after mining.

The hydrological impact could cause the water table to fall thereby draining the lake.

This in turn would expose sensitive archaeological sites which are of cultural significance to the Aboriginal communities.

It could also compromise the conservation value of the lake which is the last to still exhibit all of the flora and fauna values endemic to freshwater lakes on the south coast.

It would also detract from the immense recreational values of the park.

It may even expose the lake to pollution from acidic soils.

We therefore call on Parliament to reconsider its decision to allow the land to be excised from the D'Entrecasteaux National Park.

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 915.]

PETITION - INDUSTRIAL ESTATES

Oakajee

Hon Giz Watson presented the following petition bearing the signatures of 20 persons -

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

We the undersigned residents of Western Australia are concerned about the proposed establishment and impact of a deepwater port and heavy industrial estate at Oakajee, north of Geraldton.

Your petitioners therefore respectfully request that the Legislative Council will investigate and evaluate the suitability of the proposed development.

[See paper No 916.]

MOTION - GOVERNMENT INSTRUMENTALITIES

Privatisation

Resumed from 15 October.

HON LJILJANNA RAVLICH (East Metropolitan) [4.05 pm]: I thank the House for the opportunity to continue my remarks on this important matter. I said in my earlier remarks that I have many concerns about privatisation and contracting out and I referred to the perceived benefits of privatisation and the impediments to competition and government accountability.

The Attorney General continues to assert that, in making my presentation, I am overlooking the facts. So that the Attorney General is under no misunderstanding, I have many facts to present to the House.

Hon Peter Foss: Have you got one today?

Hon LJILJANNA RAVLICH: I will give the Attorney General some facts about privatisation and contracting out. The first fact is that we cannot get full disclosure of contract details. Whether the Attorney General likes it or not, that is a fact. The second fact is that we cannot get contracts tabled in this House; we cannot obtain copies of contracts. It is also a fact that some of the contracts into which this Government has entered with the private sector have gone wrong. It is a fact that some contracts have resulted in the loss of public moneys.

Hon Peter Foss: Name one.

Hon LJILJANNA RAVLICH: It is also a fact that this Government hides behind the veil of commercial confidentiality.

Hon Peter Foss: You call those facts!

Hon LJILJANNA RAVLICH: It is also a fact that this Government refuses to legislate to remove that veil of commercial confidentiality. I am still waiting for a commitment from the Government that it will legislate to uphold its rhetoric about accountability by ensuring there is full disclosure of contract details. It is a fact that this Government cannot demonstrate to the Western Australian public or to anybody in this place how it measures or calculates the savings involved in these contracts. The last time I spoke on this matter I referred to the bus contracts and the very large discrepancy between the projected savings figures and actual savings figures and I am still waiting to see how those savings were calculated. The fact is that the Government cannot tell the Western Australian public how many contracts it has entered into with the private sector that are over $10m, over $20m and over $30m. Irrespective of the number of times members on this side have stood in this place and sought answers to those fairly basic questions, this Government has not been able to provide the detail.

The last fact - I am sure there are many more - is that the public has a right to know. The Attorney General may well smirk. However, the bottom line is that those things are facts. I will continue to assert that the public has a right to know about the way its money is being spent and about the contractual relationships this Government enters into with the private sector.

Another area that causes enormous concern to me is government guarantees. The Government justifies privatisation and contracting out on the ground that it pulls capital from the private sector and moves it into the public sector. However, there does not seem to be much calculation on who bears the risk when contracts go wrong. It appears little work is being done on risk assessment. It is interesting to note that the Commonwealth Ombudsman found exactly the same thing.

Hon Peter Foss: What about the State Ombudsman?

Hon LJILJANNA RAVLICH: I have great faith in the Commonwealth Ombudsman. I am sure many of the findings of the Commonwealth Ombudsman on privatisation and contracting out can be transferred to the state level.

Hon Peter Foss: Are you sure?

Hon LJILJANNA RAVLICH: Yes, I am very sure.

The PRESIDENT: Order! The Attorney General will have his opportunity later to have a running commentary.

Hon LJILJANNA RAVLICH: I look forward to the day when the Western Australian Ombudsman produces a detailed report on privatisation and contracting out. The Commonwealth Ombudsman's annual report for 1996-97 states on page 61 -

> The complaints I have received to date indicate that this analysis and risk assessment has not been adequately undertaken.
>
> The complaints have also highlighted an emerging, and in my opinion disturbing, view held by some senior officers that if you contract out the delivery of a service you should also try to contract out the risk.
>
> In my view the department is and should remain the principal.
>
> The department makes the decision to contract out and sets the standards of service, chooses the contractor, and should ensure that the contract is enforceable. As such, the department and Parliament should remain ultimately responsible - especially for certain types of government services.

If I were to ask the Government what was its strategy on managing the risk for contracts it enters into with the private sector, I doubt whether I would get a response. In fact, I am convinced of that. I am confident that little, if any, work is being done in that area. It is an important area. Surely an appropriate assessment of risk of the likely outcome of

the expenditure of public moneys is critical in the contracting out process.

I turn to small business and how it is impacted on by contracting out processes. A couple of years ago the Government spent a lot of time advising the small business sector how much better off it would be as a result of contracting out; that the work from major contracts would flow through to small business; that we all would end up with higher living standards and everybody would have a job; and that this would be the State of milk and honey. Unfortunately that has not eventuated. Many small businesses are doing it tough. Much of the work that is being contracted out by this State Government goes to interstate and international companies. Small businesses in Western Australia, certainly in regional areas, are not beneficiaries of this contracting out push.

A total of five contracts were awarded to major companies to take over the role previously undertaken by the Building Management Authority for facilities management of 900 public buildings around the metropolitan area. These contracts were for cleaning, maintenance, plumbing and the like. The contracts were awarded to five major contractors - CJJP Pty Ltd, P&O Australia Ltd, Chiefton Management Pty Ltd, Serco Australia Pty Limited and Transfield. This would have been a great opportunity to let some of this work to Western Australian small businesses. Instead, this Government got greedy and dismissed the requirements of small businesses and basically tendered out those 900 contracts to only five large contractors, most of them not local. I cannot say all of them are not local because I do not know that for certain.

In doing that, this Government has overlooked small business and ignored its own "Buying Wisely" policy, to which it refers time and time again. However, there is no point in having a policy if people do not adhere to it. When the Government does not adhere to its own policy, we are in a bad state. I can understand why the Government might have difficulties in this area.

Hon Bob Thomas interjected.

Hon LJILJANNA RAVLICH: Many small businesses in regional areas are adversely affected by the "Buying Wisely" policy because, although the intent of the policy may be good, the policy is not monitored. The fact that what is done in practice does not link in with the policy directives means the policy is close to being of no value whatsoever.

The Government endeavours to do what it deems to be best when buying contracts. I suppose there is an attraction for the Government to look for the cheapest price. Members do not have to be too smart to work out that very large companies often have the advantage of economies of scale and, therefore, can produce lower unit costs than perhaps small businesses can. However, the bottom line is that this Government has a policy about buying wisely. If part of that policy is directed towards looking after Western Australian small business, then the Government should honour its commitment. Quite clearly that is not happening. I believe that many small businesses in Western Australia are very disappointed with the actions of this Government.

I turn to tendering and how tender processes are dealt with. It is fair to say that most people tendering for work with the Government would expect tendering processes to be open and fair and to be followed. However, examples have been brought to my attention which suggest that this is not always the case; in fact, it is not the case on many occasions. In preparing for this motion I noticed a question was asked about tendering processes for the Whitbread Round the World Race. A contract was awarded to Ward Holt Public Relations. In question 379 Hon Tom Stephens asked the Minister for Tourism -

> With regard to the $40 000 contract awarded to Ward Holt Public Relations to handle publicity for the Whitbread Round the World Race -
>
> (1) Was a selective tendering process followed?
>
> (2) If yes, who selected the companies that were invited to tender and on what basis were they selected?
>
> (3) Did EventsCorp office and Ms Bev Ward play any role . . .

In response to the question of whether the EventsCorp office or Ms Bev Ward played any role the Minister said -

> As event manager for the Fremantle stopover for the Whitbread Round the World Race, Ms Beverly Ward was involved with the development of the selection criteria.

She developed the criteria for the contract which her husband won. That would indicate that this process is not exactly above board. We have a wife sitting on a panel, writing the selection criteria for the tender documents, maybe knowing full well what are her husband's operation's strengths and weaknesses. It is very unfair to all the other people who are trying to compete in that tender process.

Hon Simon O'Brien: Are you alleging collusion?

Hon LJILJANNA RAVLICH: It is not appropriate for the wife of the winning contractor to have drawn up the selection criteria. She should not have sat on the board drawing up the selection criteria. Surely the selection criteria might have been drawn up by external consultants. The general public would not cop the fact that the winning contractor's wife was sitting there drawing up the selection criteria. What fate that her husband should win the contract! The bottom line is that processes must be put in place and followed, and anything less is totally unacceptable.

Hon Simon O'Brien: Will you tell me the contract?

Hon LJILJANNA RAVLICH: The $40 000 contract was awarded to Ward Holt Public Relations, which handled the publicity for the Whitbread Round the World Race.

Hon Simon O'Brien: Do you have the criteria?

Hon LJILJANNA RAVLICH: No I do not, but it is question 379. If the member wants to follow it up, I understand there was a bit of media release on it. This example came to the public's attention, but I am sure there are many which have not. I have heard of other cases where contractors who are trying to do the right thing and cut it in a fairly competitive market do not get a look in because this sort of practice goes on. We should not be accepting it; it is not appropriate; and it certainly does not lend itself to being open and fair.

The Commonwealth Ombudsman, Philippa Smith, found that her office received many complaints of tendering processes for work which was contracted out. She says that the complaints to the Ombudsman's office also highlighted the need for clearer processes and better training for officers involved in tender procedures. Common themes related to selective tender procedures which excluded interested parties, and conflicts of interest or cronyism in tender selection processes. On the point the member made, perhaps my example is more of cronyism than anything else. The Ombudsman's office also found inconsistent information being given to tenderers. As a result, different tenderers might have been disadvantaged in that process. People failed to assess tenders on an equal basis. I can see the scope for that arising depending who is on the selection panel and who has connections with whom.

Hon Ken Travers interjected.

Hon LJILJANNA RAVLICH: Maybe. Allegations were made of inappropriate use of ideas and work data during the course of tender applications. That is very interesting, because when I worked as a consultant I was amazed at the number of times we were given a tender brief which basically required us to do an industry or marketing plan or whatever the requirement. By the time we had spent the whole week producing this flash piece of work, we had basically done the job. The plan then went into some sort of tender program.

Hon E.J. Charlton: Did you get any contract from the previous Government?

Hon LJILJANNA RAVLICH: I was not working for the previous Government then. Nice try!

Hon E.J. Charlton: I merely asked the question.

Hon LJILJANNA RAVLICH: I got a contract in 1993 when the present Government came into office.

There was also a problem of oral promises which were not fulfilled. Clearly, a range of issues on tender processes should be explored. Where anomalies exist they should be brought into line and the matter addressed. Most recently we have had come to the public arena the whole issue of cost plus contracts with which the Minister for Transport has been involved.

Hon E.J. Charlton: Only in a small way.

Hon LJILJANNA RAVLICH: If the Minister thinks it is a small way, let him be the judge of that. I understand that the Joondalup hospital contract is also a cost plus contract. We have a number of very substantial contracts, costing Western Australian taxpayers tens of millions of dollars or maybe hundreds of millions of dollars, which have a cost plus component. There is the potential for those contracts to blow out and the real potential for Western Australian taxpayers having to deal with the problem at a later stage. The cost plus contracts, certainly in the transport area, are of enormous concern. I note that the Minister for Transport gave an undertaking the last time we debated this issue that he would let me look at the contracts. However, the Minister has not given an undertaking to table those contracts to give the Opposition the opportunity to look at them. The Opposition is interested to learn what are the variable components, the length of the contracts and whether the second lot of contracts have gone to the first three successful tenderers.

Hon E.J. Charlton: We have not called them yet.

Hon LJILJANNA RAVLICH: Again I challenge the Minister for Transport to table the contracts. Being the honourable man I know he is, he could give me an undertaking that he will introduce a private member's Bill to make the bus contracts transparent. If he does not do that I will question his integrity. He likes to play ducks and drakes and to muck around a little bit. He gives with one hand and takes with the other; that is the nature of the beast. I issue that challenge to the Minister not for my benefit, but for the benefit of Western Australian taxpayers, who want to ensure that they will have an effective transport system in the future.

I am very concerned about privatisation and contracting out. Horrific stories have come out of New Zealand, where the housing commission made a profit of $111m in its first year of operation. That commission is equivalent to Homeswest. At the end of the day the profit was made from probably a combination of the selling of assets and some increases in fees charged to tenants. However, when the New Zealand housing commission makes a profit of $111m in its first year of operation members must ask from where the money came. My concern is that the money came from the people who have the least capacity to pay. The people who need the assistance will be fleeced by private operators. I do not want to see such a system in Western Australia. I do not want the least disadvantaged in our society ripped off by contracting out arrangements which this Government might enter into with private contractors.

I understand the Victorian Government has contracted out the services provided by the Auditor General. One must ask: What is next? It is absolutely horrific. The Victorian Government has privatised every aspect of the prison system, not just the transport of prisoners. One must ask: What is the risk to the community?

Hon B.K. Donaldson: What is wrong with that?

Hon Tom Stephens: Is nothing sacred?

The PRESIDENT: Order!

Hon LJILJANNA RAVLICH: Exactly - is nothing sacred?

I fear for the long term economic future of Western Australians. They deserve more than they are getting from this Government's being accountable. This Government is basically shirking its responsibilities by not being accountable to the Western Australian public. It is an absolute disgrace.

The Opposition wants to see all the contracts. All contracts should be laid on the Table of the House. The Opposition would like an assurance from the Government that any adjustments which are made to contracts are also tabled in this House. If the Western Australian public are happy with the content of those contracts the Opposition can also support them. Many areas relating to privatisation and contracting out need to be explored in great detail. I will make it my business to ensure that the right to information by the Western Australian public is of utmost importance. So long as I am in this House I will work very hard to ensure that the Western Australian taxpayers get the answers to which they are entitled.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.37 pm]: I second the motion, although I have risen to take part in this debate a little earlier than I expected. I know the motion is a little succinct, but I thought I would be speaking to it closer to 5 o'clock.

Apart from its being an extremely good motion, it comes at an appropriate time. I draw the attention of members to the fact that Hon Ljiljanna Ravlich's motion requires the House to direct the Standing Committee on Public Administration to inquire into the processes and outcomes of privatisation and the outcome of contracting out public services. The motion lists the terms of reference that would be legitimate sources of inquiry. Of particular interest to me is the term of reference contained in paragraph (4), which reads -

> The extent to which State Government contracts or tenders have since February 1993 been awarded to -
>
> (a) Western Australian companies or businesses;
>
> (b) other Australian companies or businesses;
>
> (c) foreign owned or controlled companies or businesses; and
>
> (d) regionally based businesses.

Subparagraph (d) is of particular interest to me for reasons that I will explain later.

Accountability is an essential requirement for any Government. No Government more than this one needs to pay attention to that requirement. Any activities that require the expenditure of public moneys must be open to scrutiny and be subject to processes that are basically transparent and accountable. A range of good authorities have spoken to people in this State on this topic and on these themes. This Government has made it clear on a number of occasions that it will continue to privatise and outsource traditional areas of public sector activity. It is, therefore,

all the more reason that it is essential for some determination to be made as to whether these policies are beneficial to the whole community in Western Australia or whether they are simply policies that are achieving a transfer of costs from one section of the community to another. The Government has been contracting out public services for almost the entire period it has been in office. Almost on day one after the first Court-Cowan coalition Cabinet was formed, there was evidence of this new trend. It started as a trickle and became a flood, and that flood has continued since that time.

It is the view of the Labor Opposition that the Government should not be allowed to contract out its responsibility, and to give to the private sector functions that are primarily the responsibility of government. Certainly, it should not be doing that in a situation in which the taxpayer is unable to adequately scrutinise that process. Hon Ljiljanna Ravlich has well articulated so many parts of the argument with respect to this principle of transparency. She has drawn on a number of authorities whose support for this transparency one would think is compelling enough by itself. Regrettably, the mirth of members opposite to the contribution by my highly valued colleague indicates they are yet to be persuaded by Hon Ljiljanna Ravlich or the authorities she quoted. I will quote some additional authorities that might finally persuade this Government, and I hope this House, of the reason that these processes should be more transparent than they have been to date.

Independent agencies, such as the Parliamentary Commissioner for Administrative Investigations or Ombudsman and the Auditor General, have identified potential problems with contracting out of public services which make it imperative that this Parliament, particularly this House, take whatever action is necessary to ensure ministerial and government accountability for the processes of government once the services have been put out to tender and contract in the manner described by Hon Ljiljanna Ravlich. The Auditor General's report dated August 1997 referred to several flaws in the contracting out processes used by government departments and statutory authorities. A number of examples are contained in that report which was tabled in this House in August 1997. For instance, with regard to the Department of Transport, the Auditor General indicated -

> The Department had made payments of $381 415 to a contractor in advance of work being completed, when the contract did not provide for such payments. This was in breach of Treasurer's Instruction 308(4). The works covered by these prepayments was subsequently completed.

In another section of the report at page 26 the Auditor General stated -

> That qualification resulted in a review of the tendering process for the contract and it was found the Department did not conduct an adequate analysis of the contractor's financial capacity to perform the work prior to the contract being awarded.

Hon Simon O'Brien: Which authority?

Hon TOM STEPHENS: The Auditor General refers simply to the Department of Transport's audit processes and does not indicate which component of the department. However, I must say that the figure does not correspond to another figure, of which I am well aware, relating to the same department, about which I have asked many questions. I have highlighted a contract of much more financial significance to the State that will be the basis for more damning indictment by the Auditor General when he finally assesses the activity of the department in relation to it. I refer to the Exmouth marina contract and the arrangements that led to extra costs being incurred by the Department of Transport.

Hon Simon O'Brien: Was that about that specific contract or were you using that as an example?

Hon TOM STEPHENS: It is only an example. The Auditor General's report deals only with examples and does not give specific details.

Hon Simon O'Brien: Does he say there are other contracts?

Hon TOM STEPHENS: He refers simply to this one, but that is not to say it is the only one in that department. As the Minister for Transport knows, there is another example that soon, regrettably, will be the subject of quite expensive litigation and will lead to a very embarrassing result for this Government, not only with reference to the construction of the marina project but also the quarry arrangements. It is another extraordinary display of ineptitude in the tendering process for the same project. The Minister for Transport and the activities of his department will be the subject of further litigation relating to the quarry site.

Hon Max Evans: Let us wait and see what happens.

Hon TOM STEPHENS: Regrettably, it seems this Government has not learned anything from history. It lives in the past and repeats the errors of the past.

Hon Simon O'Brien: Putting that to one side, and I know you are about to draw your remarks to a close -

Hon TOM STEPHENS: No I am not.

Hon Simon O'Brien: If there is an Auditor General's report which draws attention to instances where practices should be tighter, altered, varied or brought into conformity with standards - that is part of the Auditor General's job - is it not a situation where it is a matter for the administration to mend its ways and look to itself?

Hon TOM STEPHENS: Yes.

Hon Simon O'Brien: The Auditor General is not saying it is an article of government policy.

The PRESIDENT: Order! I do not mind a very quick question, but interjections cannot be allowed when the member is outpacing Hon Tom Stephens.

Hon TOM STEPHENS: The speech by interjection from Hon Simon O'Brien further supports the case I am presenting to the House, and the case previously presented by Hon Ljiljanna Ravlich.

Hon Simon O'Brien: I was interrupted.

Hon TOM STEPHENS: The member has done very well in supporting the case. Reform is needed. The Auditor General has asked for reform, the Opposition has asked for reform, and Hon Simon O'Brien now appears to be supporting the Opposition in that call for reform. I hope he will soon be joined by some of his colleagues, certainly those on the front bench, in achieving the reform necessary. If he cannot persuade them to reform and mend their ways, they should be replaced on the front bench by colleagues of a like mind to Hon Simon O'Brien in double quick time. If not, members opposite will find themselves on this side of the House and people determined to achieve those reforms will be in government in double quick time; the Australian Labor Party will then deliver to the people of Western Australia the accountability demanded of Governments of all persuasions in these times. Despite being a conservative Government, members opposite have an obligation to the people of Western Australia to fulfil their pre-election policy. It should accept the admonishment of the Ombudsman. I have been distracted.

Curtin University is also alluded to in the Auditor General's report, as he said that the university faced risks of allegations of favouritism and not obtaining value for money when it paid $151 000 in consultancies without the appropriate number of quotes being obtained. Also, in the case of training and photocopy consultancies, no supporting documentation was provided to outline the basis on which fees were charged. Those matters are detailed on page 19 of the report. Both these cases raise questions and do not engender faith in the current contracting out processes. As we well know, the Auditor General examines a little here and a little there; it is an extract of what is taking place in government activity. The examples from the report support the Opposition's arguments on these issues.

The guidelines set out by the Public Sector Management Office are inadequate because they do not appear to be extracting from government agencies appropriate responses to the need for proper accountability. The training of staff in negotiating contracts appears to be lacking. One would think that a Government which embarks on such an ambitious process of contracting out and privatisation would have given more attention to the education of staff involved in this process.

Hon Ljiljanna Ravlich: They got rid of them all.

Hon TOM STEPHENS: Regrettably, that is exactly what happened. One of the consequences of the slash and burn process -

Hon Max Evans: The Press criticised us when we did not slash and burn, and now you say we did slash and burn. Make up your mind.

Hon TOM STEPHENS: I will explain what was done, of which the Minister should be ashamed.

Hon Ray Halligan: This is a fact!

Hon TOM STEPHENS: Indeed. The Government made some promises in the lead-up to the State election about delivering great results to the private sector by virtue of its policy in contracting out. However, straight after the election, the Government went to the same regional areas and started to slash and burn the very officers involved in the organisation of the limited amount of contracting out which took place in regional and remote Western Australia under the Labor Government. The department in Perth was left with the problem of implementing the contracting out policy in these areas. The limited resources available were concentrated in Perth.

As a result, the processes were combined so that unrealistic tenders were let across the State for work that could often be done only by city based, interstate and multinational companies. The Government has left languishing in the bush

private sector operators who thought they would benefit from the Government's policy. They have been sadly deluded and lost confidence in the Government's capacity to meet the needs of regional areas. As they sadly know now, the private sector in these areas did better under the previous Government which provided employment opportunities in regional areas. Instead, this Government transferred costs from one sector of the community to another by delivering enormous social devastation to areas stripped of government services.

This Government deserves to be ashamed of itself on the results of its policy in rural areas. Many of us in the bush know about this outcome. I would not want to embarrass National Party members, but with freedom they would nod their heads in agreement all through my contribution; they know the impact of this policy.

Hon N.F. Moore: Your policy was to spend and borrow.

Hon TOM STEPHENS: When the Minister visits his electorate, they call out the ambulance as they think there must be an emergency!

Several members interjected.

The PRESIDENT: Order!

Hon N.F. Moore: When you come to town, they wish to goodness that you hadn't!

The PRESIDENT: Order! The Leader of the House will come to order.

Hon TOM STEPHENS: I have never heard that response yet.

The PRESIDENT: Order! Let us have a little order. Question time is only a few minutes away. We were doing fairly well before certain members came back into the House. The rule is that we do not interject, we listen and we respond later if required.

Hon TOM STEPHENS: Both the extracts from the report I have quoted to the House indicate that breaches have occurred to the guiding principles set out by the Premier in his Circular to Ministers 46/93: This calls for competition to be open and fair and based on the best value for money. Those guiding principles are available for the Leader of the Opposition to quote, so I cannot understand why Ministers have been unable to apply them to their departments and agencies.

Are the guidelines some sort of a ruse or disguise through which the Government is protecting a lack of competition, unfair practices and a failure to have any commitment to achieve value for money for the taxpayers of Western Australia? Weight of evidence supports that conclusion.

More information is required about the process unleashed by the Government. We need to know about the number of in-house bids called and whether departments are calling for consultants for work which could be done within departments or the Public Service generally. The Auditor General's findings in his 1996 report appear to have had an inadequate impact upon this Government and its Ministers. That report stated -

> Agencies should only use consultants where a specific need has been identified which cannot be met from within the agency itself or the public sector.

Too often the weight of evidence is for a totally different policy adopted by the Government in regard to the use of consultants. Where are the benefits to consumers and taxpayers which were supposed to flow from these policies? They are slim pickings. The overall cost has completely outweighed any advantages to taxpayers. Consumer benefit cannot be based on apparent cost savings alone. Important are the questions of the quality of the service, the equity of the service and recourse when something goes wrong.

They are all issues of vital importance to all Western Australian taxpayers and most especially to the people of regional and remote Western Australia, whose needs I represent in this place.

Debate adjourned, pursuant to standing orders.

[Questions without notice taken.]

MOTION - DISALLOWANCE

Control of Vivisection and Experiments Amendment Regulations 1997

Resumed from 21 October.

HON TOM HELM (Mining and Pastoral) [5.37 pm]: Yesterday the Leader of the House expressed his misunderstanding about some comments I had made. I apologise, not for my accent, but perhaps for speaking too

soft or too fast for him to understand what I was saying about our interpretation of the usurping of government by bureaucrats. I tried to explain to the House a reason that the Labor Party would want these regulations disallowed. We are constantly aware that bureaucrats put together these regulations. Our Ministers are not aware of what they mean. We suspect bureaucrats advise Ministers to make legislation through regulation so it will escape the scrutiny by the House. As Hon Norm Kelly pointed out, this measure could quite easily be satisfied by bringing an amendment to this House so that the public of Western Australia is aware of the intentions of those who take part in vivisection.

We must understand the reasons for having a three year gap between approvals, compared with the present gap of only 12 months. The Joint Standing Committee on Delegated Legislation has recommended continually that there should be full consultation before regulations amending the provisions of Acts of Parliament are put into place. The Labor Party is quite concerned that in this case, in spite of that recommendation, it is blatantly obvious that there has been no consultation. I suspect that the only people who know what will happen are those who must have open slather on vivisection.

Some disquiet was expressed in the party room yesterday that we might be disallowing a regulation that would reduce the amount of red tape in which people had to be involved. As Hon Norm Kelly and most people would be aware, even though regulations may say that certain procedures must be followed, in most cases they rarely are. However, we believe in this case that researchers and academics do not cut up small, warm, furry animals just for the fun of it but do it with regret and because they are trying to advance the cause of medicine. Therefore, the Labor Party does not have a problem with vivisection. Although some people do have a problem with it, I am not one of those. I believe that research needs to take place and sacrifices need to be made - so long as I am not the one making the sacrifice, and so long as it is not happening in my backyard.

Hon Derrick Tomlinson: I do not think they would dissect you!

Hon TOM HELM: It is a long time since I have been warm and furry!

Another matter that this debate has highlighted is that we all make promises during election campaigns that are not fulfilled. The Animal Welfare Act is an old Act. I am grateful to Hon Norm Kelly for giving us this briefing document, which states that the last time this Act was looked at was 1920.

Hon Derrick Tomlinson: It was looked at two years ago.

Hon TOM HELM: It is not before time that this Act was amended, and we have been told that that will be done, and I think both parties agree that is not a bad idea. However, why amend an Act when we can get away with making changes through regulation? For the past 100-odd years, Governments have been able to get away with making changes by regulation. However, over the past few years, and particularly this year, that has become increasingly difficult. We in this place have a responsibility to encourage bureaucrats and Ministers not to take the easy way out by changing the Act through regulation; or, if they do, to give the Delegated Legislation Committee an impact statement about the reason for the change to the regulations and what that will mean, and also publish the response to any public inquiries that may be held.

We are trying to encourage public inquiries to the maximum so that people will understand the reason for changes to Acts of Parliament and regulations. Clive Brown, the member for Bassendean, has put before the Labor Party Caucus a Bill that he intends to introduce in the other place that will bring us into line with the Victorian model that requires impact statements to be made. That is not a bad idea, because both sides of the House should pursue the aim of having better and more accountable government and increased transparency about how we arrive at the decisions we make.

It will be interesting to hear the Government's response to this motion. It will be a nice surprise if the Government is prepared to either withdraw the regulation, which it will need to do it if is disallowed -

Hon Bob Thomas: Who is handling this matter on the government side?

Hon TOM HELM: Government members in this Chamber are a bit thin on the ground. I understand that the Minister for Transport is representing the Minister in the other place.

Hon Norm Kelly: He is very interested!

Hon TOM HELM: I am sure he is listening to this debate with an open mind in his office or wherever he happens to be. The Labor Party wants to make sure that the Bill to be presented by Clive Brown is supported by government members and that they see the sense of making people aware of the reasons for the legislation and regulations we pass.

The Act provides that licences to conduct experiments shall be reviewed every 12 months. This regulation has increased that period to three years. If an experiment that was agreed to for 12 months was a mistake, that might not be so serious, but it would be very serious if an experiment that was a mistake or that was based on wrong information was allowed to continue for three years.

This motion has been on the Notice Paper for some time, and I am not aware of any negotiations or discussions behind the Chair to see whether we can alleviate any of the difficulties in which the Government may find itself because of the proposed disallowance. However, we surely need to talk about the economics of having a 12 month review. It may be reasonable to argue that a 12 month review period will increase the amount of red tape and, therefore, the cost of research, but so far we have seen no explanatory memoranda about the reasons for this change. The Minister for silly grins and smirks, who sits next to the Leader of the House, has chosen not to -

The PRESIDENT: Order!

Hon TOM HELM: I have not mentioned any names, Mr President. We can see from the uncorrected proof of yesterday's *Hansard* that the Minister has the quite stupid view that the Opposition is usurping the authority of the Government. Members opposite need to get their minds around the reason that committees are set up, particularly the Delegated Legislation Committee. The members of the Delegated Legislation Committee had a conversation recently about the fact that no-one wants to bring into the public arena what they consider to be a bad move or a mistake. However, we have an obligation to advise Ministers and their bureaucrats when something is not quite right and needs correcting. If we can do that away from the glare of publicity we politicians will appear to have a professional approach to our jobs, as we should have. Most of us do. However, someone has made a silly statement that the Opposition is usurping the authority of government. If members opposite think that the Executive should run unfettered and that members of the Government are born to rule and cannot make mistakes, they will learn a very hard lesson over the next three years. It is in all our interests to try to do these things correctly.

It might sound strange coming from me, but in a political sense I do not care what happens to the people on the other side of the Chamber. However, the standing of Parliament will be diminished if we do not work together to appear to do as professional a job as possible across the board. The purpose of committees is to encourage bureaucrats to understand that it is in their interests to seek opinions from people. It is also politically good sense, because the more people we can get to agree with us, the more people will vote for us.

I think I was in the middle of saying last night when I was cut short because of the time, that the Labor Party is on record as defending the bureaucrats - the Public Service and its ethic. The Opposition is constantly fighting outsourcing and believes that our Public Service and bureaucrats should be protected. However, by the same token, when they want to usurp the authority of the elected members of Parliament we have a duty to jump on them from a great height. That is the thrust of the Labor Party's view on this matter and why its members believe this regulation should be disallowed.

The extension of time from 12 months to three years causes people some concern. The Labor Party is very surprised that animal welfare groups were not consulted. I do not know much about warm furry animals. Someone could put them in a pot, give me a knife and fork and I would then be able to explain more about them. I am not the person to ask about these matters.

However, some people in this community have knowledge of these issues. I am sure many of them will want to offer constructive opinions. Surely the population of this State wants research to take place where it will lead to alleviating human suffering, and sacrifices must be made towards that end.

I had forgotten that was the point I was trying to make yesterday. The Opposition has a proud record of supporting public servants and of fighting for an independent Public Service and against outsourcing.

Hon Derrick Tomlinson: Why are you attacking them now?

Hon TOM HELM: We are attacking some of them now.

Hon Derrick Tomlinson: You are attacking some now and defending the rest?

Hon TOM HELM: We are attacking only the ones who manipulate silly Ministers, although there are not any silly Ministers in this Chamber at present - there might be, but I do not think there are.

Hon Derrick Tomlinson: We don't have any silly Ministers in here.

Hon TOM HELM: Maybe; but we do have silly Ministers and some are silly enough to be persuaded by bureaucrats who do not understand why we are elected to our positions.

Hon Derrick Tomlinson: If I were a bureaucrat being defended by someone like you I would be offended.

Hon TOM HELM: The member has it wrong. Defended is the word; it has a D in front of it. This is not an argument about vivisection per se; it is about processes.

I support the motion moved by Hon Norman Kelly.

HON DERRICK TOMLINSON (East Metropolitan) [5.55 pm]: I used to be an academic. Not only did I enjoy dissecting small furry animals, I used to eat them - hot, not warm. Little woolly lambs baked in an oven, dissected, sliced and served with lashings of mint sauce - pigs and cows and little furry bunnies!

Hon Tom Helm: That will be the best part of your contribution.

Hon DERRICK TOMLINSON: Rather than continuing with the inanity of remarks from Hon Tom Stephens -

Hon Ljiljanna Ravlich: He is not here.

Hon DERRICK TOMLINSON: - I mean Hon Tom Helm - I am getting my warm furry animals mixed up. We must consider seriously the importance of disallowing regulations. No doubt the Parliament has the authority to disallow regulations. We are authorised to make laws and to delegate the law making process. In delegating, we reserve the authority to say no. That is very important because it is one of the checks and balances of the democratic system of the legislative process under the Westminster system of government.

As we have that right to say no, we should be acting responsibly when we do say no. I strongly urge the Democrats in particular to consider the awful responsibility they have in this place. By the circumstances of the last election two of them, by the proper processes, were elected and therefore hold the balance of power in this State. It is an awful power that they exercise. I use the word "awful" not in the pejorative sense of awful but in the grammatical sense. That power has with it a considerable responsibility.

Hon Ljiljanna Ravlich: I thought the Greens WA had the balance of power.

Hon N.F. Moore: You do.

Hon DERRICK TOMLINSON: I will not answer Hon Ljiljanna Ravlich's rhetorical question because I know she knows the answer to it. The record of this House of the Parliament in the past few months shows that the pair who have exercised their power most have been the Democrats. I do not begrudge them that. It is the proper exercise of the authority granted to them by the electorate of Western Australia.

Hon Ljiljanna Ravlich: You are not going to join them are you?

Hon DERRICK TOMLINSON: Do I look like Cheryl Kernot?

I simply say to the Democrats and to the whole of the Parliament that when we act to deny a regulation we should do it only in a very responsible manner. I regret that I was not present in the Chamber when Hon Norman Kelly presented his argument last night. I was on parliamentary business elsewhere. I therefore spent some time this afternoon reading yesterday's pink copy of *Hansard*. I acknowledge your warning of yesterday, Mr President, that it is an uncorrected proof and therefore I will refer to it on the understanding that some inadvertent errors may yet be corrected. I sincerely hope that some inadvertent errors are in this uncorrected proof and that the final argument makes more sense than it does in the draft version. I spent part of the time reading Hon Norman Kelly's introduction before I reached his reasons for the disallowance of the motion. He indicated that his reasons were many, but reduced them to four in his speech. He first talked about the need for consultation. His second reason was that this motion for disallowance relates to public scrutiny and what occurs with these animal experiments. His third reason was that extending the period of authorities from 12 months to three years has the effect of reducing the quantity of information available. The fourth reason was the introduction of regulation by delegated legislation.

Sitting suspended from 6.00 to 7.30 pm

Hon DERRICK TOMLINSON: When I scrutinise Hon Norm Kelly's speech, I find there are recurring themes of ethics, consultation, scrutiny, public scrutiny, and accountability. I want to take that whole question of scrutiny and accountability from a different perspective, away from bureaucratic management, and look at what happens within the research community. There is a paucity of funds for scientific research in Australia. Those members who followed the debate of a few months ago will recall that university scientific researchers were protesting about decisions by the Federal Government to reduce the sum allocated to the Australian Research Council. The Australian Research Council is a major source of research funding for universities in Australia. A small sum of money is available, with a large number of applicants for it. Therefore, the competition is fierce. The Australian Research Council is only one government agency that makes funds available for research; there is also the National Health and Medical Research Council and the Grains Council of Australia.

In addition to government agencies there are philanthropic organisations such as the Lions Eye Institute of WA and the TVW Telethon Institute for Child Health Research. There are international organisations such as the Kellogg Foundation, the Bernard van Leer Foundation, and the Rockefeller Foundation. Funds are available for research through United Nations organisations such as the United Nations International Childrens' Emergency Fund. There are a large number of bodies of a state government, national government and international government nature, as well as philanthropic bodies of a state, national or international kind, to which scientific researchers in Australia make application for funds.

I will describe the process of applying for such funds from the perspective of a university researcher. When I describe a university researcher, it is similar to the process a hospital researcher would pursue; however, I suspect the scrutiny of ethics in a hospital research foundation would probably be even more rigorous than in a university research process. Let us take a case when applications are called for research grants for this, that or the other organisation. The university researcher has developed over a long period of research of various kinds a project that he or she wishes to pursue. He or she might want $20 000; he or she might want $200 000. The researcher is more likely to get $20 000 than $200 000 in Australia.

Hon Norm Kelly: If you ask for $200 000, you will get $20 000.

Hon DERRICK TOMLINSON: No, if people ask for $200 000, they will be ignored. If they ask for $20 000 they have a better chance of being taken seriously. Let me explain why. Because of the fierce competition for funds, the university researcher develops his application and refers it in the first instance to a university research committee. That university research committee scrutinises all applications, all proposals for research, and selects those it thinks have the best chance of succeeding across all university faculties; that is the diverse range from human sciences and physical sciences, to biological sciences, including research on animals.

One of the factors that research committee will look at is the question of ethics: Is this ethical research? Has it been before the ethics committee? Has it been before the animal research ethics committee? Has it been before the human research ethics committee? If it has not passed the ethics committee, it does not go anywhere. Those few which get past that level of scrutiny within their own institutions then proceed to the research foundation. Whether it is the Australian Research Council, the National Health and Medical Research Council or the van Leer Foundation, the same process of scrutiny is repeated. However, instead of scrutiny by a college of peers within one's own institution, this time it is the national college of peers or the international college of peers who scrutinise every application, looking at its scientific merit and methodology and at questions of ethics - the whole range of ethics. A national or international community of scholars will scrutinise the application.

Those who succeed have been through probably the most rigorous and most informed process of scrutiny one could anticipate. We are talking about people who are extremely well informed within their disciplines and exceedingly jealous of one another because scientific researchers have only one thing to sell - their reputations. That suggests a rigorous process of scrutiny. Before we even get to the point of money being expended on scientific research, particularly involving the surgical treatment of animals, there has been that level of scrutiny.

Hon Norm Kelly suggests that to guarantee the whole process is rigorously scrutinised rather than rely upon the integrity, expertise and knowledge of the institutional animal experimentation ethics committees there needs to be a further element of scrutiny; that is, with the group that Hon Tom Helm has unfairly labelled "the bureaucrats". In other words, Hon Norm Kelly suggests that these ethics committees must be totally accountable to a public agency before a decision can be made on their research application. The reverse should apply.

Given the nature of competition for research funds within the scientific community of Australia, we should not be removing the scrutiny of research from those who are best informed and most involved in the research process - the university or hospital ethics committees - and giving them to a disembodied group of people called "the bureaucrats"; we should be authorising the local groups to make the decisions. Hon Norm Kelly is concerned that once the animal experimentation ethics committee makes its decision the recommendation passes to the Commissioner of Health and then to the Governor without further scrutiny. Hon Norm Kelly has suggested that at that stage the recommendation should be subject to some other form of scrutiny and some process of accountability. What would that achieve? We would have a group of people without the expertise, information or commitment on a set of proforma criteria saying yes or no to a program.

Hon Norm Kelly then suggests that the second reason for disallowance relates to public scrutiny of what occurs with these animal experiments. Let us not just focus on regulation 4(6), where the intention is to change from "twelve months" to "three years" and which Hon Norm Kelly wishes to return to 12 months, but at the regulations in toto. The first series of these regulations describe the application process. They apply to a person who desires to perform a vivisection or other experiments or operations on animals. Such persons may apply to the Governor for authority to do so. I suggest that "authority" and "a licence" might be interchangeable in that context. The process is

described, the form is laid out, and has been gazetted in the appendix to the *Government Gazette*. We then find at regulation 6 that the Governor may by notice published in the *Gazette* vary the conditions of authority or withdraw the authority.

Regulation 7 states -

(1) No person shall conduct an operation to which these regulations apply unless he is an authorised person.

We can substitute "licensed person".

(2) An authorised person who performs an operation shall observe the following conditions which apply to that operation and to the animal the subject of the operation -

(a) the animal subject to the operation shall, during the whole time thereof, be so under the influence of some -

My copy of the regulation is incomplete and I assume it should read "some form of anaesthesia". To continue -

(b) when the animal has in the course of the operation been so injured that its recovery would involve serious suffering, it shall be destroyed while still insensible; and

(c) an animal which has suffered one operation shall not be subjected to another.

We then turn to regulation 8, "Particulars to be Kept and Supplied by Authorised Person", which states -

Where an authorised person conducts an operation on an animal that person -

(a) shall keep a full and complete record in writing of the particulars of the animal and the nature and result of the operation;

(b) shall permit the Commissioner of Health, or any person authorised by him in writing, to have access to and take extracts from the record referred to in paragraph (a) of this regulation; and

(c) shall supply in writing a true copy of any particulars contained in the record to the Commissioner of Health whenever he is requested by him to do so.

I refer members to the authority of the Governor to withdraw the authority - the licence - at any time. This is one of the most strictly regulated research procedures.

Let us turn to Hon Norm Kelly's concern about insufficient public scrutiny of what occurs with these animal experiments. We have a rigorous and thorough process that must be met to authorise the conduct of such experiments, to conduct such experiments and then to account for such experiments.

Regulation 5 refers to the person conducting experiments or operations and states -

(1) The Governor may include conditions in the authority referred to in regulation 4 of these regulations.

(2) Without limiting the generality of subregulation (1) of this regulation the Governor may direct by the conditions in the authority -

(a) the premises at which the authorised persons may conduct operations on animals;

(b) where an authorised person conducts an operation on an animal, the persons or class of persons who may be present at the operation;

Not only does this set out the authority for that person to conduct experiments, the rigorous documentation of what can be done upon what and why, but also the regulations may state where the experiments may be carried out and who may be there. Regulation 5(2)(c) then goes into the measures to be observed by the authorised person with regard to the premises at which operations are conducted on animals to ensure that no unauthorised person may see an animal which is or has been the subject of vivisection or other experiments or operation.

Not only do we have sufficient public scrutiny of what happens to these animal experimentations, but also the regulations specify who shall be there, who shall observe and who shall not. People are excluded because some of these vivisections and experiments can be distressing. It is not pretty. What human beings do to animals and to other human beings in the name of research is unpleasant. There is no denying that. The regulations protect people from that unpleasantness.

Hon Norm Kelly wants more scrutiny of what happens to these animals. The regulations cover that. I suggested at the commencement of this address that the themes of the argument put by Hon Norm Kelly are consultation, scrutiny, ethics and accountability. The regulations are all about scrutiny, accountability, ethics and authority.

Now let us turn to the particular which says that the previous regulations stated that the authority was to be for a period of 12 months. As gazetted, the regulations were intended to extend that authorisation, that licence, from 12 months to 36 months. Under the regulations, as gazetted, we are not authorising the vivisection of an animal, the dissection of an animal, or an experiment upon an animal for three years. Under those regulations a person is authorised and has a licence to carry out such experiments. That authorised person - whether that person be a university scholar or a medical researcher in a hospital or working for some drug company or whomever - and only that authorised person, would be qualified to apply for the research grants. If people do not have the licence to carry out the experiment, their application would be rejected at the first instance by the university research council which asks whether they are authorised. If the answer is no, they cannot carry out the experiment. The person who is authorised and gets past that first stage of the rigorous scrutiny has to run the gauntlet that I described at the beginning of my speech of scrutiny by, first of all, a college of peers, then a national college of peers, and finally an international college of peers. The process alone takes 12 months, if people are lucky.

The last research grant for which I applied, before entering Parliament, was an application to the van Leer Foundation. I succeeded. The van Leer Foundation awarded to the team that I headed $350 000. It was a substantial research grant. The research was not about animal dissection. In fact, in spite of my histrionics at the beginning of this address, it was about educational research. Yet we had to go through a similar process of scrutiny and ethics committees all along the way, up to and including the van Leer Foundation at The Hague.

The research grants came in two allocations: The first was $20 000 to conduct a pilot study for 18 months. The report of the pilot study then became the basis of the application for the major funding of $350 000. That process succeeded in 1988. At the end of that year I resigned from the university to contest an election for this place. We commenced that application process in 1985. It took three years of application building, trial projects and national and international scrutiny to win that grant. That did not take into account the three years of research we had done previously and funds from other sources.

It is lunacy to turn around now and say that because we want to protect the bureaucrats, we will reduce the authorisation, the licence, from three years to 12 months. It is out of touch with the real problems of scientific research in this country. At the beginning of my address I put to members that there is a paucity of scientific research in Australia. I make the point now that until Australia recognises the need to make scientific research available, it will continue to be a developing country - that is how we are classified. There is a paucity of funds for research. The competition for funds is severe. Why impose upon the scientific research community the nonsense of its having to apply for, and qualify as, an authorised person every year? Why every year, as Hon Norm Kelly would have us do, go through the process of our own institution, then of a body set up by the Commissioner for Health, and after the Commissioner for Health approves the application go to some other body of public servants before the application goes to the Governor? It makes no sense.

I return to the request I made at the beginning of my speech to the Australian Democrats, the sponsors of this motion. They have an awful power and an awful responsibility. I ask them to use it responsibly. They should not come into this place and try to change regulations on the basis of such puerile arguments. They should do their research and when they have done that they should present an intelligent argument, not the one that we heard last night.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [7.58 pm]: When Hon Norm Kelly moved this motion for disallowance yesterday, I understood that it was a Health portfolio responsibility. As such I did not take particular note at that time; however, today, although it falls within the responsibilities of both Health and Local Government, I have been invited to make some comments on the motion. I intended to go through it in some detail, but I think Hon Derrick Tomlinson has given a very specific and authoritative summary of the situation that applied, what is envisaged under the new regulations, and the reasons that this House should not be agreeing to the disallowance of the current regulations. I will add just one thing: It depends on where Hon Norm Kelly is coming from. Is he really upset about the move from one to three years, or does he want a more significant change to the whole process?

The regulation will increase the period of the licence from one year to three years. Under the current system, there are approximately 1 800 individual licences, which must be reviewed every 12 months. That creates a considerable workload for scientific establishments; tertiary institutions and schools that wish to renew their licence; the Health Department, which is required to assess the renewal applications; and for the Governor, who under the Act must approve each licence renewal.

As we have said over the past few months, it is one thing to have increased accountability and scrutiny, which in principle nobody would argue about; but if we continue to load up organisations that are doing research and carrying out initiatives for the benefit of the community as a whole with requirements such as this, they will devote more of their resources and expertise to applying for licence renewals and carrying out the associated procedures than they will to performing the functions that they were set up to perform. People not only in the research area but also in small business continually say to me, and I am sure also to other Ministers, that they would love to employ more people, but not if they had to complete all of this documentation. A person said to me over the weekend that a few years ago, his small business employed four directors and nine employees, but today three directors were doing the work themselves because the responsibilities that they were being asked to take on in running a business and employing people had gone over the top and were destroying what they were trying to do. The philosophy that we see in this motion of putting in place all these roadblocks and scrutiny processes may result in things not being done to the same extent that they were done previously because people will say that they do not want to be part of it.

The extension of the time to three years will enable people to get on with their job. Under the proposals that have been approved for the drafting of a new Animal Welfare Act, the current licensing system will be replaced with licences that will be issued by the Executive Director of the Department of Local Government for a period of not more than three years, and experimentation will be overseen by a statutory animal experimentation ethics committee and be subject to inspection by inspectors appointed by the Minister for Local Government.

The new Bill is likely to be introduced into the Parliament in early 1998. The current code provides that scientific establishments which make funding applications to the National Health and Medical Research Council shall be subject to scrutiny by the council's animal welfare committee. That committee takes into consideration a number of matters, including details about the scientific establishment's ethics committee, and this type of funding is dependent upon researchers complying with this code. I ask members to think about what Hon Derrick Tomlinson said about the procedures that are in place.

The motion may be genuine and made for good reasons, but I again say to Hon Norm Kelly that it is way over the top. We should not sit in judgment all the time about how other people operate; and I do not know of any criticism that has been made about the operation of the current Act. A new Bill will be introduced early next year. That will be the proper time to debate the scrutiny procedures, and the House may even recommend that that Bill be sent to the Legislation Committee. However, that is for the future. We are talking about a change from one year to three years to deal with 1 800 individual licences. I ask the House not to agree to this motion.

HON NORM KELLY (East Metropolitan) [8.05 pm]: I thank those members who have contributed to this debate. I would like to go over some of the points made by the Minister and Hon Derrick Tomlinson in opposing this disallowance motion. Hon Derrick Tomlinson referred to the method of approving research grants primarily in universities rather than in hospitals, but similar situations exist in both types of institution, and to the need for ethics and other committees to determine the worthiness of applications for research funding.

Hon J.A. Scott: If the Government moved a bit faster in bringing in the Animal Welfare Bill, it would alleviate the problem.

Hon NORM KELLY: I do not have a problem with the scrutiny that is applied to research funding. I agree with Hon Derrick Tomlinson that in these days when funding for research is often inadequate and limited dollars are available, the scrutiny of research applications should be strict indeed. However, much of this scrutiny is based on things such as scientific merit, methodology and ethics. When we talk about ethics, we are talking not just about animal ethics but about the worthiness of the research project; and when we talk about scientific merit, we are talking not just about the possibility of advancing science as a whole but also about the economic benefits of that research. Although this scrutiny is often well meaning, unfortunately much of it is based on the outcome of the research rather than on the treatment of the animals that are involved in the experimentation.

Hon Derrick Tomlinson: One of the most difficult committees to get past is the ethics committee.

Hon NORM KELLY: The animal experimentation ethics committee?

Hon Derrick Tomlinson: That is probably the most rigorous.

Hon NORM KELLY: I have researched this subject and looked at some of the ethics committees, and I will outline again for the benefit of members the membership of these committees. The membership comprises a minimum of four people. The first person must have qualifications in veterinary science, preferably qualifications that are relevant to the activities of the research that is being done by that institution. The second person must have substantial recent experience in animal experimentation. The third person must represent and show a demonstrated commitment to animal welfare; and generally speaking this person comes from an animal welfare group. The Australian code of

practice refers to a fourth person. Although this code is not backed in a legislative sense, it has been adopted by all institutions.

Hon Derrick Tomlinson: Codes of practice do not need legislative backing.

Hon NORM KELLY: It is interesting that the Minister intends to give the code legislative backing in the proposed animal welfare Bill.

Hon Derrick Tomlinson: Do you think it should be legislated?

Hon NORM KELLY: Yes, I do. During debate on the animal welfare Bill, we will look at the code of practice to see whether we should adopt it totally. The code to which I refer is up for review - as should happen with all these codes - and we should see a new code of practice for animal experiments in the next two or three months. The code states regarding the fourth person on the committee -

> An independent person who does not currently and has not previously conducted experiments using animals, and who is preferably not an employee of the institution.

It is a broad scope.

Hon B.K. Donaldson: It sounds like a pretty solid committee to me.

Hon NORM KELLY: It is a broad range of membership with expertise, some degree of animal welfare concern and independent representatives - that is, the perspective of the normal person in the street.

Hon Derrick Tomlinson: A better word is not uninterested, but disinterested.

Hon NORM KELLY: That would be the representative's attitude to the general running of the practice. This person can provide an objective judgment on the humanity of what is happening with the experiments. With a minimum of four members, usually a minimum of six or seven members applies in such cases, one has a guarantee of only one representative advocating animal welfare; it is still very much the minority position.

I indicate to Hon Derrick Tomlinson that despite all the scrutiny involved in such application for research funds, animal welfare is nevertheless a small component of the assessment of that research. Despite the merits of the animal experimentation ethics committee, one area requiring stronger representation is the rights and humane treatment of animals in these processes. Included in that assessment should be whether animals should be used in that process at all, and the consideration of alternatives.

I appreciate that Hon Derrick Tomlinson went through the regulations which pertain to this debate. It was quite a lengthy trip through regulation 4 and highlighted the level of scrutiny involved. Often, the Governor and the commissioner may request information -

Hon Derrick Tomlinson: Sometimes it is unnecessary because of the thorough process. Therefore, he may.

Hon NORM KELLY: I agree that it should be discretionary. It also refers to the method of treatment of animals in that only authorised persons should be present when experiments are conducted. As mentioned by the honourable member, often it is highly distressing to see such experiments. Interestingly, it is also a way of making sure people do not see what is happening to the animals subject to such experimentation.

Hon Derrick Tomlinson asked why we should disallow the regulation when scrutiny and great practices are involved; he said that they were strong and accountable. However, in the 33 minutes Hon Derrick Tomlinson took to tell us about these regulations, interestingly at no stage did he mention regulation 4(4). I know he was not present for my speech last night. Regulation 4(4) states that where the application is granted by the Governor, notice of the granting of the authority shall be published in the *Gazette*. I inform Hon Derrick Tomlinson, if he has not read *Hansard* from last night, that such publishing in the *Gazette* has not occurred for the last 11 years.

It is a requirement of the Act that people conducting experiments have their names published in the *Gazette* to inform the people of Western Australia who are conducting these experiments. This has not occurred for 11 years, yet Hon Derrick Tomlinson suggests that we should trust the great regulations because they are being adhered to. That is not the case, so how can we have confidence in these regulations? Good reasons may exist for the names not being published, and that matter alone is worthy of further debate. However, it throws fear into animal welfare people to discover that one regulation has been blatantly ignored for the past 11 years

Hon Derrick Tomlinson: If it is true - I have no reason to dismiss what you say - those people responsible are guilty of some sort of serious oversight. They might be called bureaucrats. If those people are guilty of such oversight,

would you give them the responsibility for authorisation in the manner you want?

Hon NORM KELLY: I am presented with an amended regulation presented in Parliament; I can act on that. A better way of dealing with this matter would be to amend the Act to do away with the requirement for the Governor to authorise such applications. Let us consider the Act and give the power to the AEEC to deal with the matter, which is the intention of the proposed animal welfare legislation.

Hon Derrick Tomlinson: Then let's stop dealing with loopy legislation and get on with proper legislation of the kind you just advocated!

Hon NORM KELLY: Exactly. That is why I am trying to be as brief and possible. However insignificant the member regards this matter, it is terribly significant for many people. We should not deny the House's responsibility to deal with such issues. This should not interfere with the expedition of other matters in this place, but it is an important subject. Serious concern is held among animal welfare groups about some regulations being ignored.

We can improve in many ways the legislation for animal welfare. Another reason for moving this disallowance motion is the delays in introducing a new animal welfare Bill. Following the handing down of the Animal Welfare Advisory Committee report in late 1994, an assurance was given by the Government that it would proceed with a new Bill.

Hon Derrick Tomlinson: Do you know the reason for the delay? It was caused by public dissention about the recommendations of the Animal Welfare Advisory Committee. The draft Bill was in place two years ago.

Hon NORM KELLY: The advice I have received from officers of the department is that the reason for the delay is not as outlined by Hon Derrick Tomlinson but the lack of priority given to it by this Government.

Hon Derrick Tomlinson: Why was the legislation drafted two years ago?

Hon NORM KELLY: That is why we have received ministerial advice to the effect that the new Animal Welfare Act will be introduced as a green Bill in the spring of 1998. It will be autumn 1999 before we debate the new legislation. It is because of these delays that people are highly sensitive to any changes to the existing regulations.

Hon Derrick Tomlinson: Delays are caused by those very sensitivities. There is public dissension about this.

Hon J.A. Scott: On the part of whom?

Hon Derrick Tomlinson: The general community.

Hon NORM KELLY: The general community has not had the chance to look at this legislation, so I cannot agree that there is public dissent.

The Minister's comments demonstrate the degree of concern the Government has about this disallowance motion. At 11.00 pm yesterday I could not find out which Minister was handling the debate. We are here to debate the merits of the legislation and possibly to work out a way to deal with it, but we are not sure which Minister will handle it. I accept that this problem overrides much of this section of the legislation because the Act is administered by the Minister for Local Government and yet these regulations are administered by the Health Department. I can understand a bit of confusion in that area, but the Government could have worked it out before this.

Hon E.J. Charlton: Neither of the Ministers is in this House. I was explaining why I did not take an interest in it last night following your comments.

Hon NORM KELLY: This motion has been on the Notice Paper for some time and the department is well aware of it. I refer again to the concept of consultation. There should have been discussions between the animal welfare groups and the department about the merits of this legislation. That has not occurred. That is illustrated by the information that I was given by the department and the contrary information that the Minister has just quoted.

The Minister said that 1 800 applications are lodged each year. The paper I received from the Health Department states that the figure is 1 200. That is still a large number, but there is a significant discrepancy between the two figures. So far this year, 803 authorisations have been granted and another 35 are waiting to be approved. That is virtually half the number to which the Minister referred.

Last night I outlined the reasons for moving this disallowance motion. I have listened to the comments made by Hon Derrick Tomlinson and the Minister, but unfortunately nothing they have said leaves me feeling secure in not supporting this motion. I commend the motion to the House.

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance	Hon Mark Nevill	Hon Tom Stephens
Hon J.A. Cowdell	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon E.R.J. Dermer	Hon J.A. Scott	Hon Giz Watson
Hon Helen Hodgson	Hon Christine Sharp	Hon Bob Thomas *(Teller)*
Hon Norm Kelly		

Noes (12)

Hon E.J. Charlton	Hon Peter Foss	Hon M.D. Nixon
Hon M.J. Criddle	Hon Ray Halligan	Hon Greg Smith
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Derrick Tomlinson
Hon Max Evans	Hon N.F. Moore	Hon Muriel Patterson *(Teller)*

Pairs

Hon Cheryl Davenport	Hon W.N. Stretch
Hon Tom Helm	Hon Simon O'Brien
Hon N.D. Griffiths	Hon B.M. Scott
Hon John Halden	Hon Barry House

Question thus passed.

MOTION - SELECT COMMITTEE ON NATIVE TITLE RIGHTS IN WESTERN AUSTRALIA

Special Report on Committee Procedures

Hon Tom Stephens presented a Special Report of the Select Committee on Native Title in relation to Committee Procedures, and on his motion it was resolved -

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

[See paper No 918.]

SMALL BUSINESS DEVELOPMENT CORPORATION AMENDMENT BILL

Report

Report of Committee adopted.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL

Second Reading

Resumed from 17 September.

HON BOB THOMAS (South West) [8.29 pm]: The Opposition supports this Bill. However, I must point out that it does so reluctantly because, even though it supports the aspects of the Bill that will improve the operation of the Building and Construction Industry Training Fund, it is opposed to the sunset clause.

I should also point out that this Bill was passed by this House last year during the spring session. It was then delivered to another place and first read, but not dealt with because the Parliament was prorogued. I remember very clearly that when the Premier announced the election he stated that he was doing so because the Government had dealt with its legislative program and it did not want to sit on its hands.

The Government wanted a fresh mandate so that it could get on with the business of its legislative program in a new Government. This Bill is an example of where the Government clearly had not completed its previous legislative program. It makes a mockery of the reasons the Premier gave for calling an early election. Members may remember that when we sat in March of this year the Industrial Relations Legislation Amendment and Repeal Bill was rushed through this House before the change of members in this House in May.

Hon B.K. Donaldson interjected.

Hon BOB THOMAS: It is good to see the member is listening.

Before I deal with this amendment I will recap on the history of the building and construction industry training fund levy legislation which was passed through this House in 1990. It came about as a result of a tripartite mission to

Europe in 1988 or 1989. The mission comprised members of employer and employee organisations and government departments. It went to Europe to examine a number of employment and vocation issues. One of its recommendations was that a fund levy be established on building activity to be used for training in the building industry.

Hon N.F. Moore: Are you sure about that?

Hon BOB THOMAS: Yes, it was one of the recommendations.

Hon N.F. Moore: I was on the committee and I do not recall the recommendation.

Hon BOB THOMAS: I am told SESDA was the most important piece of legislation which came out of the mission. The levy on the building industry to be used to fund training in the building industry was provided for in another piece of legislation which came out of that mission to Europe.

Members will recall that Western Australia had come out of the 1981 recession. There was some lag in the speed at which the building industry came out of the recession. The building industry did not start to pick up until the mid-1980s. It then began to overheat in 1987, 1988 and 1989. For quite some time in the 1980s building industry activity was very flat in the domestic house building industry and the construction industry. As a result a lot of skilled people left the industry. When we then had the rapid escalation in demand for skilled people in the construction and private dwelling industries, we found there was a severe shortage.

I can recall that in 1988 bricklayers were in such short demand they were demanding thousands of dollars per week to work on houses. That is how serious was the shortage of skilled labour. As a result we had the Building Construction Industry Training Fund and Levy Collection Bill introduced into this Parliament in 1990 and subsequently passed. The Act set out to do a number of things, one of which was to establish the board. The board was made up of various sectors which included four representatives of employer organisations, four representatives of employee organisations, a representative of the Western Australian Municipal Association and two representatives of the Department of Training. Those organisations were prescribed and members of the board represented them. Voting on the board was constrained in such a way that a quorum required at least two members each from the employer organisations, the employee organisations and the government organisations. A majority from each of those three sectors was needed to vote in favour of something before it was passed.

The Act also established the fund. The Act gave the trust legislative power to collect the levy. It was able to invest surplus funds and to borrow from Treasury. The levy was set at 0.2 per cent of the value of the building permits. It was to be paid at the time of the approval of the building permit. The Act established which organisations could collect the levy. In practice it has turned out that local government authorities, such as shire and city councils, have collected the levy. They have been paid, I think, $2 per collection. They have also benefited from having some cash reserves during the time that the levies are held before they release them to the board. Apart from doing all those other administrative things, like establishing the Financial Administration and Audit Act, which covered this Act, and authorising persons to collect the levy, the Act had a three year review period. That review was to take place within six months of the third anniversary of the proclamation of that legislation.

As a result of a requirement for a review, the incoming coalition Government contracted Mr Len Hitchen to undertake a review. Mr Hitchen consulted widely within the industry. He consulted user groups, industry representatives, employee organisations and so on. He made a number of recommendations, the principal one of which was that the building and construction training fund levy be abolished and the board be wound up. However, he said that if the Government did not accept that course of action, it should take a number of steps to improve the operation of the board. He identified a range of problems associated with decision making and the distribution of funds. Mr Hitchen picked up on Roy Standish's report, which identified that the building and construction industry training fund had a discrepancy in the way it treated various types of apprentices. Employers who had indentured apprentices were paid $2 000 from the fund, whereas group training schemes, such as the great southern training scheme or the south west group training scheme, received far higher payments. They amounted to $16 000 per apprentice for administration and $12 000 for the apprentice indenture. A total of $28 000 was paid for a group training apprentice scheme, whereas only $2 000 was paid to an employer who had an apprentice indentured. Standish said it was unfair and inequitable and felt that something should be done about it. He also observed that the reserves in group training schemes escalated between 1991 and 1994 after the introduction of the trust fund. I recall that the amount of reserves in the great southern group training scheme increased from $30 000 to $100 000 in that two year period and the reserves in the south west group training scheme increased from $100 000 to $800 000. Standish quite rightly pointed out that it was a problem.

Hitchen also reported that there were problems with the size of the board. He said a 12 member board was cumbersome and reported that there were enormous problems with decision making because of the nature of both

the quorum and the majority decision. I have already pointed out that three groups were represented on the board and each group had to have a majority of members in attendance. A positive vote required a majority vote in each of those three sections. Hitchen recommended that the Act be amended to replace that cumbersome system with a simple voting majority.

Hitchen also identified significant problems with common membership of the industry employment and training council, as it was called under the State Employment and Skills Development Authority, and the industry training council, as it is now called under the vocational education and training legislation. He recognised that some members of the IETC, who were making recommendations to the board of the levy trust fund, were also on the board of the BCITF. He could see conflicts of interest in that instance, as well as conflicts of interest when the board made decisions on the allocation of its funds. The board allocated its funds in the same proportion as they were collected from the private dwelling industry, construction industry and the civil engineering industry. Hitchen identified a problem.

Hitchen identified problems with the ambit of the levy coverage. I understand these problems have been rectified through regulations which were passed a couple of years ago. The agriculture and mining industries were excluded from the ambit of this Act. He also identified that it was quite a litigious process for various organisations which believed they should have been excluded from the ambit of this Act and recommended an appeal mechanism to the Minister.

Hitchen identified the problem of the administrative staffing of the BCITF and the IETC. If members read Hitchen's report they will note that innovative accounting procedures were undertaken to purchase the equipment for the trust fund board through the IETC, which had some sort of taxation exemption. Hitchen identified a lot of problems with that process, including the problem of common staff. He also identified problems with organisations which actually provided training, but were still required to pay the levy and then seek a refund from the fund.

The Hitchen report was released to the public and I understand there was a lot of public comment. The industry - the employers and employees - were both strong in their view that the trust fund should not be dissolved. They did not accept Mr Hitchen's recommendation that the levy be abolished and the reserves in the trust fund be dispersed within the industry for training purposes. They lobbied the Minister for the retention of the levy, the trust fund and the training that resulted from the dispersal of those moneys.

I will refer to a letter dated 22 September 1994 which was sent to Hon Norman Moore. The letter is headed, "Re: BCITF- Hitchen Review". It states that the organisations participating in this extensive consultation process included all the building and construction trades organisations. It said that unanimous agreement was reached that the fund was a major contributor to the maintenance and ongoing development of a trained work force and that despite the recent problems it must continue. It went on to indicate that it was agreed that the size of the board should be reduced and the quorum and voting procedures be amended to a simple majority. It was recommended that individuals rather than organisations be represented on the board and that there be a reduced scope of collections for building licences only. I imagine it would also cover major projects. The creation of an appeals tribunal was recommended. Further separation of the IETC and the BCITF was recommended and it was considered that there was scope for additional sectors to be added at a later date. The letter was signed by representatives of the Australian Workers Union, the Builders Labourers Federation, the Construction Contractors Association of Western Australia, the Construction, Forestry, Mining and Energy Union, the Electrical Contractors Association, the Housing Industry Association Ltd, the Master Builders Association, the Master Painters Association, the Master Plumbers Association and the Painters and Decorators Union.

Attached to that letter was a position paper that outlined their position and elaborated on the areas I alluded to. I will not read it into the record because it elaborates on the issues I have already alluded to. However, I will refer to the opening and closing paragraphs. It is titled, "The Structuring of the BCITF- A Unanimous Industry Position". It indicates that, by recognising that changes are required, the building and construction industry organisations unanimously believe that the fund must continue. The final paragraph states that the existence of the fund is critical to the future availability of trained labour for the industry. It states that it is an industry initiative that should not be removed on the grounds that it had problems. It goes on to say that these problems can and must be resolved and that the industry believes the proposed changes cover all the outstanding issues and it should be permitted to continue. It is a unanimous position from industry that the trust fund was doing what it was set up to do. Members who recall the debate in this House will know that the trust fund was set up to increase the number of qualified people in the industry and to improve the nature and number of skills of people in the industry.

The considered opinion of the industry, both employers and employees, is that the trust fund was doing that. They recognised there were several problems and that changes needed to be implemented to improve the functioning of the legislation. I do not know whether this was undertaken by Hon Norman Moore in his role as Minister for Employment and Training or by the new Minister.

Hon N.F. Moore: I brought in the last Bill.

Hon BOB THOMAS: I should have remembered that. The Bill before us today is very similar, in that only one clause is different. This amendment Bill picks up those issues that the Hitchen report identified as problems for the efficient functioning of the trust fund, and introduces amendments that the Labor Party supports. The Labor Party wants this fund to work and it wants the building industry to have the advantage of a properly functioning training scheme funded by the levy. It will support the amendments that will improve the way the trust fund operates. I will briefly comment on that.

The Labor Party supports the reduction in the size of the board, and the change to a simple majority decision making process. The Labor Party accepts the need for an independent chair but it will move some amendments to the way in which the new members are appointed. Members may have seen on the Supplementary Notice Paper an amendment that seeks to ensure that at least two members appointed to the board are acceptable to employer organisations and at least two of the seven members are acceptable to employee organisations. It does not prescribe the organisations or dictate that the members must be nominated, but they must be acceptable to those organisations. The Minister still has the final discretion in appointing these people to the board.

The amendment Bill also seeks to separate the building and construction industry training fund from the industry training council, and deals with the problem of common membership and vested interest. The Labor Party supports that and understands that the amendment is necessary in order for this to work properly. The Labor Party accepts the changes in the Bill that deal with the sectoral distribution of funds. It accepts those parts of the Bill that clarify the ambit of the levy coverage. It is necessary for an appeals mechanism to be in place so that those people who feel they should be exempt from the ambit of the levy have some administrative appeal to the Minister, and do not need to be involved in costly litigation. The Labor Party wholeheartedly supports the clauses of the Bill that allow organisations that establish their own training arrangements to apply to the Minister for exemption.

However, the Labor Party is opposed to clause 32, which is the sunset clause. The Labor Party feels this trust fund is necessary to ensure an adequate supply of skilled labour. It is necessary for the orderly planning of the supply of skilled labour within the building industry. It recognises that Western Australia at the moment is experiencing very subdued trading conditions in the building industry, and that many people have left the industry in the last few years. However, there are some indications that both the private dwelling and commercial construction areas of the building industry are about to recover. It is estimated that in 1999-2000 the commercial sector will start to increase significantly, and those involved in the domestic building industry have indicated the number of home loan approvals has started to increase. Over the next 12 months or so there should be further improvement. It is necessary for this fund to be in place to ensure the orderly planning of the supply of qualified labour within the building industry and to avoid the inflationary pressures of the past caused by a shortage of skilled tradesmen.

The Labor Party also believes that insufficient time was allowed before the Hitchen review was undertaken. The review was undertaken after a period of subdued activity in the building industry. As everybody knows, there are wild fluctuations in activity in the building industry and the trust fund levy should be given a chance to operate in a variety of economic conditions before a considered judgment is made as to whether it has been effective. The Bill before us proposes to introduce a sunset clause for the year 2000. This was amended in another place from 31 December 1999 to 31 December 2000.

The Labor Party does not think sufficient time will have elapsed or that sufficient variable trading conditions will have been experienced for a proper evaluation to be made on the effectiveness of the legislation. The Labor Party also thinks it is the wrong time to decide whether that sunset clause should come into play. The sunset clause includes a provision that it can be extended past 31 December 2000 by proclamation. It also requires that another review be conducted at the beginning of 2000. The report should be tabled in the Parliament by 31 August 2000 at the very latest. Everybody knows that will be during the lead up to the next state election when traditionally there is a logjam of legislation before Parliament is prorogued. The hothouse atmosphere in the lead up to an election, when there will be a logjam of legislation, will be the wrong time to consider whether the sunset clause should be extended.

I have placed on the Notice Paper an amendment that the sunset clause be pushed to the year 2002. That will give a variety of trading conditions within the building industry and, I imagine, a more temperate environment to consider the need for this levy and whether we should be passing a Bill through this Parliament to repeal the sunset clause. The Opposition will be seeking to amend the sunset clause to the year 2000 and will be requiring a review of this legislation in the 12 months leading to that decision.

The Opposition believes that the trust fund and the levy should not be abolished. It would like more time for the trust and the levy to be viewed before that decision is made.

I reiterate that the Labor Party wants to see the levy and the trust fund work properly. It agrees with most of the amendments to the legislation contained in this Bill. However, it is opposed to the sunset clause. Although the Labor Party will vote for this legislation at the second reading stage, it will seek to amend it in Committee.

I am aware that my colleague, Hon Helen Hodgson, from the Democrats will seek to refer this Bill to the Public Administration Committee. She believes that various aspects of the Bill should be examined in committee and reported back to the House. The Labor Party will support that referral.

Hon N.F. Moore: What about listening to our argument before you make a decision?

Hon BOB THOMAS: The Opposition is aware of the Government's argument.

Hon N.F. Moore: I have not talked about it yet.

Hon BOB THOMAS: We are aware of the Minister's views.

Hon N.F. Moore: How do you know them? We have not debated this matter.

Hon BOB THOMAS: I have been in this House for eight and a half years and have heard Hon Norman Moore talk on employment and training matters dozens of times; I know his values. I am fully aware of where he is coming from on these matters.

Hon N.F. Moore: Hon Helen Hodgson will not try to send it to the committee to talk about employment and training but to alter the construction of the Bill. It would be appropriate if you heard our argument about that before you made a decision.

Hon BOB THOMAS: I am aware of the attitudes held by Hon Norman Moore; I can anticipate his arguments, but I will listen to them.

Hon N.F. Moore: I am sorry I am so obvious. I will have to try to be more subtle in future.

Hon BOB THOMAS: That would be like a brick I am afraid. I have already had discussions with members of Caucus who have carriage of this Bill through the other place. We have established our position. Nonetheless, I will pay the Minister the courtesy of listening to him and if he raises any issues that I have not anticipated I will speak to my colleagues and Hon Helen Hodgson. The argument she put to me was very good. The Opposition will support it.

It was not uncommon when the Labor Party was in government for the coalition to state its position on motions and Bills before it heard our arguments. I am not doing anything different from what Hon Norman Moore did when he was in opposition.

Hon N.F. Moore: I thought you had a far more progressive attitude, but obviously not.

Hon BOB THOMAS: I do; I am a very progressive person. As I said, I will listen to the Government's argument.

Hon N.F. Moore: It is a matter of the tail wagging the dog in this situation.

Hon BOB THOMAS: If Hon Norman Moore raises any issues that are worthwhile, I will consult with my colleagues in the other place and with Hon Helen Hodgson. Having said that, the Labor Party supports the major thrust of this Bill and will be supporting all those areas which improve the Building and Construction Industry Training Fund and Levy Collection Act. However, it has grave reservations about the sunset clause.

HON HELEN HODGSON (North Metropolitan) [9.05 pm]: I have closely examined this Bill. I support the existence of the building and construction industry training fund. It is very important that a proper system of training be available to our apprentices in the building industry. At present we have a problem with ensuring that places are available for apprentices. Therefore, in the building and construction industry we have developed a model of the building and construction industry training fund which ensures that places are available for apprentices throughout industry.

It is obvious that, despite problems which we have heard about and will continue to hear about, the scheme behind this arrangement has worked. For example, when the Act first came into effect the Master Builders Association had 31 apprentices in its program. It now has more than 200 apprentices. They are basically financed through the BCITF.

The scheme ensures that employers who would not normally be able to afford to take on an apprentice, because either they do not have the continuity of work or they are not large operators, are contributing to a fund which is used to ensure training is available across industry.

Other training schemes are available, but the most noticeable impact of this scheme is in the apprenticeship area. It is true, however, that the Hitchen report found a number of problems with the administration of the fund. Those problems relate to the way in which the board is constructed.

Part of the thrust of this Bill is to reform the board and to examine some of the problems to change the situation so that an independent chair can ensure that sectorial interests do not totally dominate the decision making process and to ensure that funds are not spent on a sectorial basis. In general the Democrats are happy with the thrust of those recommendations. They are supported by the industry, which has recognised the problems. We believe those areas need to be reviewed.

However, we feel there is a major inconsistency in the way the legislation is drafted. On the one hand the legislation seeks to wind down the board; it will cease either in the year 2000 or at a later date if the Government makes a proclamation. On the other hand a reform process is taking place. The second reading speech states that the reform process will give the board an opportunity to see whether it will work. Here is where I can see the major inconsistency. The long title of the Bill indicates that it is for the repeal of the fund, but at the same time 90 per cent of the Bill is devoted to making the board work for a defined period.

That will make the board a lame duck. We will spend much time and energy reforming something only to see it abolished. Therefore, this Bill is badly constructed. It should be either a Bill to reform the board or a Bill to abolish the fund. We are trying to do both in the same legislation.

Hon N.F. Moore: You are misinterpreting the clause.

Hon HELEN HODGSON: I do not believe the fund should be abolished, and we should have a proper board to deal with it. This inconsistency means that the main thrust of the legislation is contrary to the long title.

I have a couple of specific concerns and have foreshadowed a number of amendments. Although the Democrats support the thrust of reform of the board, in some areas the reforms do not go far enough. For example, the Democrats believe in the principle of appointment on merit. Therefore, the positions should be publicised so that the proper selection processes can be followed to ensure that the best people are appointed. That is the reason we have suggested that that part of the Bill be considered. We have also suggested some other relatively minor amendments.

However, the reason for my concerns is the fundamental inconsistency in the way the Bill is constructed. The Democrats believe the board is very important. We want to see training continue and the board reformed. It is obvious that it is not acting properly in its current formation. Hitchen has said so, as have the industry groups that I have consulted.

To make the reforms and at the same time say they will be implemented only if the board starts to work properly in a certain period is self-defeating. It means that we are putting in place a board that will be in existence only until such time as it is terminated. Even the proviso in the sunset clause that the proclamation can be deferred by the Governor begs the question. It still provides that the legislation must be proclaimed at some time. We cannot have a proclamation clause that never takes effect - although that has happened with the commencement of Bills, but that is a different issue. Some serious matters must be debated and the appropriate place to debate them is in a standing committee, not in a Committee of the Whole.

HON LJILJANNA RAVLICH (East Metropolitan) [9.14 pm]: The Labor Party supports training in all industries, particularly in the building and construction industry. As most people are aware, central to most people's lives is their home. It is usually the greatest investment they make and it is important that domestic dwellings are properly constructed.

An investment in our human resources is an investment in our future. We as a State and as a nation should be working smarter, not harder. If we are talking about working smarter, we are talking about the importance of training. No-one can deny that that is very important.

As members are aware, the building and construction industry is defined as having five sectors: The housing sector, the commercial sector, the engineering sector, the government sector and the services sector. In the past funds have been distributed according to those sectors. I do not have a problem with the fact that that might not be so in the future.

However, I do have problems with the idea that this fund is at risk of being wound up in a few years. I have enormous problems with that for a number of reasons. First, I believe we need a skilled work force. In November 1993, the industry employed over 65 000 people. It has experienced depressed conditions, both in the commercial and housing sectors, and no doubt that is reflected in the other sectors. However, it is still a significant employer in this State. I am advised that it has a multiplier of about 6.5, so many ancillary industries rely on it.

It is a high risk industry dominated by men. Historically it has had very low levels of training. Much still needs to be done. Members will remember that the Federal Labor Government introduced an Australian training guarantee, which was designed to induce industry into training.

Hon N.F. Moore: And then got rid of it.

Hon LJILJANNA RAVLICH: Just as this Government abolished the State Employment and Skills Development Authority. The Australian training guarantee was a very positive -

Hon N.F. Moore interjected.

Hon LJILJANNA RAVLICH: That was yet another broken election promise.

The training guarantee was a very positive move, but unfortunately it was abolished. In this State we had SESDA. One of the Government's election promises in 1993 was that SESDA would be strengthened, not destroyed. SESDA had a network of industry training councils, of which that for the building and construction industry was but one. What happened to SESDA? The minute this Government was returned to power, SESDA was abolished. How many broken election promises have we seen? I hate to think of the number.

I refer members again to the importance of well built dwellings, because their home usually represents a family's major investment, particularly for working people. They tend to put a lot of money into it and it is the one asset on which they are not forced to pay capital gains tax. As a consequence, it becomes very significant to them.

Shoddy workmanship in a whole range of areas has posed enormous problems, many of which were the result of people not having adequate training to undertake the tasks involved.

The majority of people in the housing sector are subcontractors. Subcontracting is the dominant method used to employ people to undertake bricklaying, wall and floor tiling, plastering, painting, decorating and the like. Only half the people working in those areas hold a formal trade certificate in the occupation in which they work, with regional participants in the industry even less likely to hold a trade certificate. That highlights the importance of training in the industry, especially when one looks at the importance of people's homes as their major asset. It is fundamental that we get good tradespeople who are adequately skilled to produce a fine product for the consumers of Western Australia.

The Building Industry and Construction Industry Training Fund was established after much consultation with the building and construction industry in 1990. A key reason for its establishment was to reduce the cyclical skills shortage that plagued the industry. During booms we did not have enough skilled people and during recessions we had more people than the industry could employ. That caused enormous difficulties. This fund was established so that some of those fluctuations could be ironed out.

It is interesting to note that, while this Government is moving towards the abolition of the fund after the year 2000, the Australian Capital Territory is moving towards the establishment of such a fund. It is almost laughable that this Government looks to wind down an effective training fund which was established at the request of the building and construction industry prior to 1980.

Hon N.F. Moore: It was not. You don't know the history of this at all.

Hon LJILJANNA RAVLICH: Other States are moving towards the formation of a building and construction industry training fund while this Government - a Government that supposedly supports training, but when it comes down to the practicalities does not deliver the goods - in its wisdom reneged on training and on SESDA.

Hon N.F. Moore: SESDA was a disaster.

Hon LJILJANNA RAVLICH: The Leader of the House knows the Government should not have promised to Western Australians that it would not repeal SESDA. The problem the Leader of the House has is that he does not know how to keep a promise.

Hon N.F. Moore: You don't know what you are talking about.

Hon LJILJANNA RAVLICH: In this case I do know what I am talking about because I worked as the adviser on the formation of both the SESDA legislation and the Building and Construction Industry Training Fund legislation.

Hon Derrick Tomlinson: So that is what's wrong with it!

Hon Bob Thomas: You, too, were dragged back in here in 1994 by Barry MacKinnon and made to vote for it. We had to sit over here and keep our mouths shut.

The PRESIDENT: Order, members!

Hon LJILJANNA RAVLICH: Many training challenges are faced by the building and construction industry. New technologies and new work structures are emerging all the time. Changes to traditional craft boundaries are occurring and there is increasing specialisation in some areas and fragmentation of skills in others. Without adequate training a work force cannot be expected to adapt to some of these fundamental changes. An increasing emphasis is placed on more sophisticated management skills, including teamwork, communication and decision making. Why should members of the building and construction industry not have the benefit of training in those fields? It is almost a denial of the rights of blue collar workers. White collar workers and members of Parliament seem to think that time should be spent on communication and team work and those sorts of skills. For any product to be produced effectively on the ground, teamwork and coordination are required. The Leader of the House rolls his eyes.

Hon N.F. Moore: I'm not rolling my eyes. I'm trying to take a deep breath.

Hon LJILJANNA RAVLICH: These factors are essential to an effective production process. We must ensure that the work force is skilled. A mountain of evidence suggests that in some sectors the skill levels are particularly low. A survey a couple of years ago in the wall and ceiling fixing industry - every building needs stable walls and ceilings - found that of 150 respondents only 26 per cent held a formal trade certificate, with the remainder not having any formal qualifications whatsoever. Considering the number of unskilled people who are putting together the most precious asset that most people will ever own, I thought this Government would be running to save the fund. It should extend the sunset clause to the year 2000 and for ever more. The legislation should contain a clause that says the Government will never repeal this legislation. That is how significant this matter is.

Hon N.F. Moore: The clause provides for the Government to do that. If you read it carefully, you will see that.

Hon LJILJANNA RAVLICH: It does not do that currently. The Government will look at the matter again. I ask the Leader of the House not to ask me to trust him. He has let me down time and time again, as he has let down the Western Australian public, because he repealed SESDA when he said he would not.

Hon N.F. Moore: I did not say anything of the sort.

Hon LJILJANNA RAVLICH: The coalition election promise in the lead up to the 1993 election was clearly that it would strengthen SESDA. The whole industry jumped on the bandwagon and said how good this Government was because it was going to do something for training. The minute the Government got its first opportunity, SESDA was gone. The Leader of the House says, "Trust me."

Hon N.F. Moore: I did not say that. I would not want you to trust me at all.

Hon LJILJANNA RAVLICH: There are many training priorities. One area of enormous concern to me is safety training. This industry is a high risk industry and it lends itself to high rates of accidents, injuries and disease. A mountain of work must be done in training. I have some prosecution summaries that were made available through WorkSafe. One involves the lack of arrest equipment provided on a building site, which was in breach of the Occupational Safety and Health Act. The description of the breach was that the employer failed to provide adequate personal protective clothing and equipment as was practicable to protect employees against hazards. On 13 July 1995 the injured employee and three other workers were stripping a suspended birdcage scaffold from a lantern roof of a building under construction approximately 5 metres above ground floor level when the employee lost his balance and fell to the concrete slab below. No fall arrest equipment was provided. The employee's injuries were a shattered right kneecap, three breaks to his right arm, fractures to his left and right cheekbones, bruising of the brain and impaired vision. He lost 80 per cent sight in one eye. The fine for that breach was $5 000; however, that is another issue.

The PRESIDENT: Order! I am glad Hon Ljiljanna Ravlich mentioned that it was another issue, because I was going to bring her to the point of the Bill. The second reading speech enables her to address the matters that are raised in the Bill itself, and not range much wider. I asked for a copy of the Bill because I thought my copy was not the same as the copy she had. Under standing orders the member is supposed to address the Bill in its present form.

Hon LJILJANNA RAVLICH: Thank you, Mr President. In my preparation for comments on this Bill I, too, looked at Hitchen's review of the Building and Construction Industry Training Fund legislation. Industry people came to me, even prior to Hitchen undertaking that review, and said they could almost tell me what his recommendations would be. The BCITF was set up in the latter part of 1990. There were some teething problems in how the BCITC and the BCITF would interact and whether they would be together or elsewhere. There was then a period leading up to the election, and the election was held in 1993. By July 1994 a review was conducted. I do not feel as though the BCITF ever got a fair chance to get up and running. When I think about the history of the BCITF and the difficulties it had in demonstrating effectiveness, I cannot help drawing some comparisons between the Hairdressers

Registration Board and the argument that that is an ineffective board. The Hairdressers Registration Board has been in limbo for 10 years. A number of factors have made it difficult for this board to operate as effectively as it might have done.

There have been historical difficulties with the operations of the BCITC and BCITF. The BCITF has been under threat since this Government came to office and I do not think the repeal of the SESDA legislation has made the operations of the fund any easier; in fact, it has already led to the industry training councils becoming less purposeful than they may have been. I know from my own experience that the BCITC is an effective body. I am somewhat concerned about the council's long term future given the direction of this Bill. There needs to be a strong interface between the industry training council and the fund, because the council has the role of assessing the training needs within the building and construction industry; therefore, that body has a key role in effectively allocating the funding. What is surprising is that rather than strengthening the interface between the ITC and the BCITF, this Bill pulls the two apart. I note that in July 1995 an internal audit of the BCITC by the accounting firm of Hall Chadwick recommended as follows -

> Whilst there is provision in the Building and Construction Industry Training Fund and Levy Collection Act 1990 for the operations of the Council to be funded there is no formal agreement on the basis on which such funds would be provided each year.

Some provision should have been made in this Bill. Hall Chadwick continues -

> At present the operating costs of the Council including costs of acquiring fixed assets, are reimbursed by BCITF in full to the extent they are not met by the grant from Western Australian Department of Training. We suggest that the Council should have this arrangement reduced to writing so as to avoid any possible disputes at a future date.

That was a recommendation of a top accounting firm in this State. That exact recommendation was made again on 6 September 1996, when Hall Chadwick noted there was no formal agreement and perhaps there should have been, and once again on 29 July 1997. It is disappointing that the Government did not take that advice in the amendments it has proposed to this Bill by strengthening the interface between the BCITF and BCITC and has gone the other way.

The Hitchen report presented two options for action but concluded that the BCITF had not been an effective mechanism to promote training in the industry and there was no need for the levy to continue. The review recommended that the levy be abolished and residual funds used for the benefit of training in the building and construction industry. That contrasts with the industry's response to the Hitchen review. Hon Bob Thomas referred to correspondence dated 22 September 1994 to Hon Norman Moore where the industry made its view clear -

> The organisations participating in this extensive consultation process include ALL of the building and construction trades organisations. Unanimous agreement was reached that the Fund was a major contributor to the maintenance and ongoing development of a trained workforce and that despite the recent problems, it must continue.

A sunset clause does not fill one with confidence that the fund has a long term future.

It concerns me that one of the Bill's aims is to reduce the size of the board and to enhance decision making processes through the introduction of a simple majority. The Bill is drafted in a way that is designed to get unions out of the picture. That is what this Government is about. I could go off on a tangent, Mr President, but I will not, being mindful of your earlier words. The sub-agenda in this Bill is to ensure that the BCITF has no union representation.

The Bill also seeks to complete the separation of the BCITF from the industry training council through the abolition of common membership and provides for a new funding relationship based on clear resource and performance contracts. I do not have a problem with the abolition of common membership. The same people should not sit on those organisations. However, I do have a problem with the new funding relationship being based on clear resource and performance contracts between the BCITC and the BCITF. I made this point earlier. Surely if the Government saw this as a major objective that it wanted to see effected it would have included this item in its amendments, but that is not the case, so I question the integrity of that objective.

The BCITC has a fundamental role to play. This piece of legislation does not fill me with confidence about the future of the industry council training network, of which the building and construction industry training council is one. I also note in passing that in my reading of the new vocational and education training legislation no mention was made of industry training councils. I wonder whether there may not be yet another hidden agenda by this Government.

Other objectives of the Bill are to provide for an administrative and staffing structure which is independent of the BCITC secretariat, increased accountability and the use of tenders in the allocation of funds. Once again, as no reference has been made to the role of the BCITC in the Bill I wonder who will set the training needs for the fund

to be able to make its determinations. What worries me is that a fund operating in isolation from the BCITC acting as a banker and collecting from industry in a fairly even handed way will redistribute the funds in a way which is not reflective of the industry's real training needs. I do not think that is in the best interests of the industry or Western Australian taxpayers.

I have a range of concerns in relation to this Bill. I am alarmed at the hidden agenda in this legislation; that is, the elimination of union representation on the BCITF board. Hon Bob Thomas has already signalled his intent to ensure that of those seven members two will be drawn from employer organisations and two will be drawn from employee organisations. That fills me with some concern. I am pleased to see that Hon Bob Thomas will move an amendment to the sunset clause. I do not believe the fund has ever been given a fair go by this Government. Once again, there is a hidden agenda. I know that the Leader of the House will probably get up and say that I am very negative and I am always negative. I know that that is coming from him.

Hon N.F. Moore: I promise I will not say that this time. If you sit down, I will not say that.

Hon LJILJANNA RAVLICH: On the face of it, I cannot conclude anything else except that this Government fully intends to do exactly what it did with the sister legislation of this Bill. I am very concerned about the quality of the end product that we will get in this State from this industry if we do not continue to train people. I am worried about the Government's directive to allow organisations to train to their own standards. I find that alarming.

Hon N.F. Moore: Heaven forbid that they should train their own!

The PRESIDENT: Order! The member is trying to wind up her speech.

Hon LJILJANNA RAVLICH: We must adhere to national training standards. So much of what I hear in this place is rhetoric. When we look for the detail, it is just not there. I am alarmed that training standards in this State and in this industry may be reduced if we do not make some of the protective amendments that Hon Bob Thomas has indicated we should pass. Subject to those amendments and others that might come from other members, we support this Bill.

Debate adjourned until a later stage of the sitting, on motion by Hon Muriel Patterson.

[Continued below.]

SITTINGS OF THE HOUSE - BEYOND 10.00 PM

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.44 pm]: I move -

That the House continue to sit beyond 10.00 pm

The intention is to finish the second reading debate on the Building and Construction Industry Training Fund and Levy Collection Amendment Bill.

Question put and passed.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Report on Labour Relations Legislation Amendment Bill (No 2) - Extension of Time

By leave, Hon Kim Chance presented a report from the Standing Committee on Public Administration seeking an extension of time in which to report on the Labour Relations Legislation Amendment Bill (No 2) be extended from 22 October to 27 November, and on his motion it was resolved -

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

[See paper No 919.]

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL

Second Reading

Resumed from an earlier stage of the sitting.

HON GIZ WATSON (North Metropolitan) [9.46 pm]: I will speak briefly on this Bill on behalf of the Greens (WA). This has fallen to me because I have spent 12 years in the building and construction industry, both as a trade carpenter and joiner and as a registered builder. I have some experience of this industry. I would like to share the concerns that have been raised by Hon Ljiljanna Ravlich and other members about the standards of training in this industry. In the period during which I was in the industry, the standards seemed to be declining. The move towards

subcontractors and the general downturn in their training was of concern to me. It also concerned me when I supervised sites in relation to quality assurance and health and safety issues.

The Greens wish to support this Bill. We support the need for a training fund in the building and construction industry, and a levy. It is of some concern that the levy has disappeared from other areas of construction, particularly the mining industry, and it is unfortunate that that has come about.

I also want to speak in support of the role of the Building and Construction Industry Training Council and its ongoing involvement in decisions about training in that industry. I am concerned about the ability of project owners to seek a reduction or an exemption from the training levy on the basis that they may provide training. There is a concern that this will lead to a weakening of standards. I am concerned that that will impact on the standards.

We also share the concerns about the sunset clause. We agree that this Bill on the one hand is trying to give the training fund a chance to prove itself, but on the other it has the threat of termination hanging over its head. We seek to extend the sunset clause.

I will be moving an amendment to ensure the Building and Construction Industry Training Council has a role and is consulted about the decisions of the board. I will leave the details of our amendment to the Committee stage.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.47 pm]: I thank members for their comments on this Bill. I congratulate Hon Bob Thomas on what I thought was a very comprehensive and detailed understanding of the Bill and the processes that have led to it. He has outlined that the Labor Party supports the Bill generally, but has a problem with a couple of issues, which I notice have resulted in some amendments being put on the Notice Paper. I thank him for his general support. However, he has suggested an amendment about the way in which the board is formed, and I will very quickly comment about that.

The Bill has been very carefully framed to try to avoid some of the problems of the past. One of the most serious problems was the tripartite nature of the board. With the convoluted voting and quorum processes, people did deals with each other. One member would say, "If you support us on this one, we will support you on that one." To get the required number of votes, those deals were done between employers and employees. It developed into a very cosy relationship. That is what is wrong with the whole thing. This cosy relationship between the employer groups and the employee groups and the very cosy relationship with the Building and Construction Industry Training Council meant that we had a very serious conflict of interest when members of the BCITF board were allocating funds to the BCITC, of which they were members. The funder and the receiver of the funds were the same person or were from the same organisation. That is a very serious conflict of interest and we are seeking to avoid that with this Bill. I would find it a retrograde step if the amendment proposed by Hon Bob Thomas were agreed to; in other words, to put back onto the board, representatives of various sectors within the industry.

Hon Bob Thomas: You did not hear me.

Hon N.F. MOORE: I heard what Hon Bob Thomas said.

Hon Bob Thomas: Your concerns would be covered by the fact that it would be a majority vote.

Hon N.F. MOORE: The amendment does not do what the member says it will do. It says as I read it - I may be mistaken; we can look at this in more detail later - that the members must be from those groups or agreed to by those groups.

Hon Bob Thomas: Acceptable to.

Hon N.F. MOORE: The end result will be union representatives and employer representatives, and that is to be regretted, because in order for this board to be successful, it must be independent of the players in the system. As I said last year during the debate on this matter, I envisage the BCITF under this proposal as being a bit like a bank, where it makes decisions about which competing interests should be allocated funds for training purposes. It should collect the levy and allocate the funds according to the various competing demands and be, like a bank, independent of the nuances that may occur in respect of the propositions that are made about the expenditure of the funds. Banks are quite capable of making decisions about lending money to a range of industries and individuals, and for a range of purposes.

If we retained the tripartite nature of the board, we would ensure that it remained ruined, as it is at present. We are strongly opposed to the proposition put by Hon Bob Thomas about the composition of the board. I say in all seriousness, putting aside my basic lack of support for tripartism, there are some occasions when tripartism does work. A good example is the Mines Occupational Safety and Health Advisory Board, which is a tripartite body, which is appropriate in that circumstance. However, I am positive and adamant that tripartism is not appropriate in this circumstance.

Hon Bob Thomas: The analogy of a bank is not appropriate. This board is set up not to make a profit but to improve training in the building industry.

Hon N.F. MOORE: That is right, but it does that by collecting money out of the pockets of consumers, not out of the pockets of builders. Builders think it is a good idea, provided they do not have to pay. The poor consumers pay, as they always do, because the building industry collects the money from consumers by whacking a bit onto the price of the house or the construction, and gives it, through the local authority, to the BCITF, which allocates the money. Collecting the money is the first important role of this organisation, and deciding how to spend it is the second role. Banks do that every day. They collect people's money through their savings and allocate it through loans.

It is not necessary to have on that board people from the unions or from the building industry, any more than it is necessary to have people from a consumer group or any other group in the community. We need a group of people who can make the right decisions about where the money should go. Under the old arrangement, the cosy deals that were done by the various members were such that money was spent on training programs which Hitchen found were totally inappropriate and verging on corruption and which ensured that some union organisers did very nicely indeed by working hand in glove with the building companies.

Hon Ljiljanna Ravlich: That is nonsense.

Hon N.F. MOORE: The member can disbelieve that all she likes. The fact of the matter is that Mr Hitchen conducted a review - I will come in a moment to the disgraceful comment that the member made - from a completely independent point of view, and reached the conclusion that the board was a waste of time and energy and should be abolished. That was his preferred position. He said also that if we did not want to get rid of the board, we should change it. That is what I decided to do as the Minister for Employment and Training at the time. I made the decision that while to get rid of it was probably the best thing to do at the time, it would have an effect, in the short term at least, on the apprentices who were employed in the building and construction industry. Therefore, I decided to introduce this amendment Bill to make the board a more useful, purposeful and accountable organisation than it was. It will be a retrograde step to return to a tripartite board, because that will ensure that it remains incapable of delivering the goods at the end of the day.

The second matter that was raised is the sunset clause. This sunset clause is one of the few real sunset clauses that I have seen in legislation in Western Australia. Most clauses which require a statutory authority or board to be reviewed are review clauses: They say, "In five years' time, this organisation will be reviewed, and the review will be tabled in the Parliament." They do not say anything about the future of that organisation. I have never known a review to say that an organisation should be abolished, when many organisations that are reviewed have passed their use by date.

A genuine sunset clause is one which adopts the reverse process and says, "This organisation will discontinue unless we make the positive decision to continue it." The sunset clause in this Bill says that this organisation will cease to exist on a certain date, unless the Government of the day decides to carry it on beyond that date; and it can do that by proclamation. This sunset clause basically says that at a point in time when the new board has had time to work through the important issues and has had a chance to prove or disprove itself, the Government of the day can make a decision about whether it should continue.

The problem with review clauses is that we say, "We will keep this organisation going until somebody makes a decision to get rid of it"; and I regret to say that never happens. There is a lot of merit in sunset clauses which say that an organisation will not continue unless a positive decision is made that it will continue.

There has been some misunderstanding, or perhaps deliberate misrepresentation, of the sunset clause in this Bill. It is there not because the Government wants to get rid of the board but because the Government wants to make sure that it performs. If it does not perform, it should be abolished. I think everybody would support that proposition.

Hon Bob Thomas: It is an Act to provide for the expiry of the BCITF.

Hon N.F. MOORE: That is right. It will expire, but the clause states that the Governor may by proclamation determine a date beyond the expiry date. That means, in effect, that the Governor, which is the Government of the day, can make a positive decision that this organisation will continue beyond that date; and the date may be 50 years hence. That decision will be made by the Government of the day on the basis of what this organisation has been able to achieve during the time in which it has been operating. That is fair and reasonable.

Hon Bob Thomas: What about the long title?

Hon N.F. MOORE: That is Parliamentary Counsel's language.

Hon Ljiljanna Ravlich: Do not blame it on them!

Hon N.F. MOORE: That is the language they believe is appropriate for the Bill.

Hon Helen Hodgson: The title says what the Bill will do.

Hon N.F. MOORE: The Bill provides for it to expire unless the Government of the day decides it shall go beyond that. I will read the clause again; it is very clear, even for a person with minimal understanding. Proposed section 35 reads -

> (1) This Act expires -
>
> (a) on 31 December 2000; or
>
> (b) if a later day is fixed under subsection (2), on that later date.
>
> (2) The Governor may, by proclamation before 1 December 2000, fix a day that is later than 31 December 2000 as the day on which this Act expires.

The Governor, which is the Government, can say that under proposed section 35(2) the Act will expire in the year 2050 or 2950.

Hon Ljiljanna Ravlich: Why not do that?

Hon N.F. MOORE: It is the wrong system of government to set up an organisation which will remain regardless of its performance. Thousands of quangos exist in Western Australia because nobody has got around to dismantling them. If one went the other way and inserted a sunset clause, a positive decision is needed for the organisation to continue. If the fund is doing the job in the year 2000, the Government of the day would be stupid to close it down.

Hon Helen Hodgson: Why not use the wording in the thirty-sixth report?

Hon N.F. MOORE: The thirty-sixth report is not the *Bible*. It is a report of a committee. As much as I would like things with which I have an involvement to be the Ten Commandments, that is not the way the system works. That report has never been debated or accepted by the Parliament or any Government; it is simply a report of a committee. Members should not keep using it as some form of law we need to abide by.

Hon Helen Hodgson's misunderstanding about sunset clauses is the same as Hon Bob Thomas', and we heard Hon Ljiljanna Ravlich's positively negative comments; again, the member misunderstands the sunset clause. She went on at some length about SESDA, which has nothing do with this Bill at all.

As an aside, when I became Minister for Employment and Training, I had no preconceived ideas about SESDA. I knew about it because it was set up as a result of a trip with which I was involved. It was a tripartite mission overseas which was supposed to solve the problems of the world. I believe it was Laurie Carmichael's idea when Peter Dowding was the Minister. A number of people trotted off overseas, and all that resulted from the trip was the establishment of SESDA. I was precocious enough at the time to issue a one-person dissenting report stating that if the trip resulted in the establishment of another government agency, I was against it.

As Minister, I inherited SESDA and the associated Department of Vocational Education and Training, and these two organisations spent all their time at each other's throat. It was an appalling state of affairs. A statutory authority was heading down one path and a government department was heading somewhere else. They never spoke to each other to consider the training needs of the State. The unions were running one, and the bureaucrats the other.

As Minister, I hired Dr Vickery, a highly regarded educator in Western Australia, to review the structure of education and training in Western Australia, and he recommended that SESDA be abolished with the establishment of the State Training Board. This comprised industry representatives and its role was changed. Therefore, the board's subsidiary Training Advisory Council now considers training issues, and I have never heard any complaints about this body apart from those from Hon Ljiljanna Ravlich.

Hon Ljiljanna Ravlich: I am here to speak on their behalf.

Hon N.F. MOORE: On whose behalf? The member does not speak on anybody's behalf on that issue as everybody who was involved in the change from SESDA to the current arrangement went along with it. I have heard no criticism until now. I can understand the member's difficulty as she was involved in setting up SESDA. The sensible change arose from the Vickery report. The member made a disgraceful remark about Len Hitchen, suggesting that somehow or other he had a preconceived view about what he would report.

Hon Ljiljanna Ravlich: No, I did not.

Hon N.F. MOORE: The member did.

Hon Ljiljanna Ravlich: I stated that he was regarded as an industry representative.

Hon N.F. MOORE: Saying it in here is grossly unfair to the person. The member suggested that somehow or other he had a preconceived view, which was not the case. I can assure the member that he is a fine gentleman who is highly regarded and respected in the community. He would resent the suggestion that he took on a consultancy with a preconceived view about the outcome. He conducted that inquiry to the best of his capacity and did a very good job.

The member said SESDA was never given a chance. However, a statutory review was conducted, and it may have been late when it occurred. I as Minister was required to institute that review, the recommendations from which we have discussed.

The relationship between the BCITC and the BCITF has been raised by a couple of members. The reason for separating those bodies is clear. I am not aware of the current relationship, but when I was the relevant Minister they had a very unhealthy relationship, about which the Auditor General made comment from time to time. Some people were on both bodies. Therefore, people making decisions about spending the money were the same people as those spending the money. It was unhealthy. They were separated completely. I hope that the member will not persist, as Hon Giz Watson persists, in the view that a relationship between the two is necessary.

The BCITC is an industry training council and its role is determining the training needs of the industry. Its role is not to be involved in funding decision making. The fund - which I call a bank - is to make decisions on competing interests. The BCITC will seek training funding like other bodies. It would be grossly unfair for all other training providers to find a cosy relationship between the council and the fund.

Hon Ljiljanna Ravlich: They are not training providers.

Hon N.F. MOORE: They are involved in many training programs, as are the member's union mates, such as the former BLF - Len Hitchen found this unbelievable.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Hon Ljiljanna Ravlich is interrupted the Minister, who is trying to conclude his remarks.

Hon N.F. MOORE: We are trying to ensure that the differentiation between the roles of the council and the fund is maintained properly. We must remember that training funds come from the pocket of consumers via building and construction companies to the authorities and into the BCITF. The money belongs not to the unions or the BCITC, but to the State of Western Australia -

Hon Ljiljanna Ravlich: To the HIA and the MBA.

Hon N.F. MOORE: It is not the MBA's money either. It is money collected by the board of this fund to train people in this industry. Many people, from private providers to union providers and all other parts of the spectrum, can provide quality training in this industry. It has been suggested that by changing the way the BCITF operates, the Government will affect the quality of training. Training delivered in Western Australia now must be accredited.

The Training Advisory Council, which is a subcommittee of the State Training Board, has the role of ensuring that all training delivered in Western Australia is properly accredited. Members talked about that matter the other day in debate on the Hairdressers Registration Board. It is a requirement of government to ensure training is properly accredited and will lead to the right outcomes. Many training providers in Western Australia can deliver quality training. They must be accredited through the State Training Board as training providers and the courses they offer must be accredited. That is how it should be. Any change to the board will make no difference to that. That is part of the overall training agenda. It is not specific to this industry.

Hon Bob Thomas: It is the continuation of a levy. We are not arguing about that.

Hon N.F. MOORE: Hon Bob Thomas is not, but Hon Giz Watson is.

Hon Bob Thomas: We are arguing for the continuation of a levy and the provision of training that is purchased by funds raised through the levy. That is needed to plan properly for labour requirements in the building industry.

Hon N.F. MOORE: That is what this Bill seeks to do. I had two options as the former Minister for Employment and Training. One was to close down this fund. At the time the Government could have done that, because it had the numbers. However, I made the decision to keep the fund going.

Hon Bob Thomas: That is what the long title of the Bill says it will do.

Hon N.F. MOORE: I understand what the member says; however, he must read the clause. The clause states that,

when enacted, the Government of the day can keep it going beyond that expiry date. That is what the law will say. That is the bottom line.

The Bill provides also for project owners to apply for an exemption. I had that provision included in this Bill because a number of industry groups said they thought they could provide better training by running their own training courses than by having to contribute a levy to the BCITF which then allocated the funds to other providers. Under this legislation they can apply for an exemption, provided the training program they want to conduct is properly accredited and arranged. There is no intention of diminishing training. An opportunity is available for industry groups that want to do their own training, independent of the levy, to provide it, without the levy having to be paid. This Bill will provide a flexibility that does not exist at present, and that is a worthwhile course of action. One of the problems with SESDA and the BCITF is that they were totally inflexible with no room for any variation on a theme. That is one of the reasons the Government seeks to fix this fund.

This Bill is simple: It will provide for the continuation of the BCITF until 2000. It will provide for its ongoing role and continuation, subject to proclamation by the Governor of the day, if it is shown that this organisation is doing the job for which it is set up. Hon Ljiljanna Ravlich says she does not trust me. If I were not genuine about training in this industry, this Bill would be just for the abolition of the fund. As I said a moment ago, the Government had the numbers in both Houses for that to be achieved; it could have been done two years ago. I could have used the two options in the Hitchen report to say that was what the Government would do. However, I made the decision, quite properly, to give this fund another go under a different guise - with a different management, a different board, and a different way of making decisions - to see how it worked. If it works well, who will want to close it down? However, if it is a flop, the Government of the day must do something about it at that time; that is, either get rid of it and put something else in its place, or go about funding training in this industry in another way.

This legislation is a genuine attempt to ensure that training is delivered in this industry. All members know it is a fragmented industry. I agree with Hon Ljiljanna Ravlich that quality training is vital in any industry, but this industry is most important to our economy. Because of the fragmented nature of employment in the industry there must be a collective way of providing training across the board. Often small employers cannot deliver the training they need. Training companies are doing a good job of providing training. Significant improvements have been made in the way training is delivered through the training group scheme system. Group schemes may be the solution to this industry.

This Bill is a genuine attempt to ensure this scheme works better. The scheme was in a terrible mess when I became Minister. It had many problems in the way it went about its business. Those problems had to be remedied and serious questions of conflict of interest had to be addressed. I do not know that the quality of training was better, although I acknowledge that in some areas more training was being provided. Obviously it had to be, because $6m or $7m from the levy was spent each year on training. I suspect a different board may have delivered better and more flexible training in those areas in which it was needed, rather than in industries in which some unions or employer groups -

Hon Ljiljanna Ravlich: You are really stuck on unions.

Hon N.F. MOORE: I am talking about employer groups, too. I have referred to both sides in this matter. If the member was in the Chamber when I began my comments, she would know what I am talking about. I attacked both sides. It was a cosy relationship. The BLF would say to the HIA, "If you fund our program, we will fund yours, mate." Hon John Halden knows how it works: "You do this for us and we will do this for you."

Hon John Halden: I have only just walked in here. What did I do?

Hon N.F. MOORE: Hon John Halden is the past master of these practices.

It did not matter whether the training was good; it depended on what groups thought they wanted to do. That did not necessarily relate to the best training, but to what in their view was in the best interests of the BLF, the HIA or the MBA. I told them collectively that that was what was wrong with the fund. That is why they wrote to me, as Hon Bob Thomas quoted in his speech, saying they would go along with the changes. It was so obvious to everybody what was wrong that even those groups agreed to the changes.

This Bill is necessary to ensure the fund works. I genuinely want it to work so it will provide proper training, for young people particularly, in this important industry. I hope the House agrees to the second reading of the Bill. When members return to this Bill tomorrow I will argue against sending it to a committee because I believe that as a House we can make the decisions that must be made.

Question put and passed.

Bill read a second time.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.18 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Deduction of Union Dues from Salaries

HON LJILJANNA RAVLICH (East Metropolitan) [10.19 pm]: I bring to the attention of the House a matter of concern to me and to members of the Community and Public Sector Union. It relates to the signing of a deed in February 1993 by Hon Carmen Lawrence. There has been some controversy about the validity of that deed. The deed relates to the deduction of union fees from salaries by the Government. An edict was issued recently that from January next year that deduction will no longer occur. The signing of that deed was not a last minute action. Consultation had occurred between the Government and the union on an ongoing basis since February 1992.

The State, on behalf of the Community and Public Sector Union, made deductions of union fees from the salaries of union members prior to payment of their salaries. The deed said the deductions by the State would continue. Presently a range of deductions are made by the Government and include HBF or Medicare premiums, vehicle lease fees and subscriptions to professional bodies for employees on a salary packaging arrangement. The Lawrence Government said that it would continue to make deductions and not charge a fee provided they were part of the second tier negotiations or part of a consent award variation, and this Government agreed to uphold that arrangement. This Government has reneged on that commitment. That leaves the union in a fairly difficult position, and raises a number of very important issues, the first one being the validity of the deed.

It has been argued fairly strongly by the Minister for Labour Relations that because the Lawrence Government was in caretaker mode at that time, the deed should be deemed to be null and void. Although the Minister for Labour Relations has been happy to make that judgment because that deed was signed by a caretaker Government, he has supported many decisions which were made by the former Minister for Planning Hon Richard Lewis, who made over 40 planning decisions in a caretaker capacity. I will quote from a report in *The West Australian* of 8 February 1997. The article refers to decisions made by Mr Lewis and states -

> November 22: Orders the Stirling City Council to insert a clause in a town planning scheme for the Innaloo shopping precinct, which the council and Opposition claim could leave the council open to big compensation claims.
>
> December 12: Overrides a WA Planning Commission decision to refuse a subdivision in Dardanup after an appeal by consultant Peter Webb & Associates.
>
> December 23: Overrides Stirling's objections to a $6 million medical centre and child-care complex in Yokine after an appeal by Peter Webb & Associates.
>
> January 3: Scraps the Murray Shire's demand that chemicals giant Rhone Poulenc pay a $10 million environmental bond to ensure its radioactive rare earth processing project at Pinjarra is left clean.

The list goes on.

Hon Bob Thomas: What about Margaret River and Bunbury? There are plenty examples down there.

Hon LJILJANNA RAVLICH: While in a caretaker mode this Planning Minister made 47 planning decisions.

Hon John Halden: The best one was making sure he had the job in the East Perth Redevelopment Authority.

Hon LJILJANNA RAVLICH: That is probably the case.

I am particularly concerned that two sets of rules are being applied by the Minister for Labour Relations to different interest holders.

Hon Bob Thomas: Who was Mr Lewis accountable to during that time? He was not in the Cabinet.

Hon LJILJANNA RAVLICH: He should have been accountable to Cabinet. I am alarmed because the Minister for Labour Relations in a radio interview this morning said that he did not feel that the State Government had any responsibility to deduct union dues. If the Minister does not see any need or responsibility for the Government to be involved in deducting unions dues, why does he see a responsibility for it to be involved in deducting funds on behalf of HBF, vehicle leasing organisations or any other agency for that matter? The Minister went on to say that it was a matter solely between the union and its membership. I argue, if that is the case, perhaps HBF should deal directly with its members in the work force rather than the Government assisting it to undertake those deductions, and the same would apply to any vehicle leasing company.

The unions are naturally concerned because it will impact on them. The position of the Minister for Labour Relations on this matter is almost laughable. He commented on radio this morning that he could not commit future generations to this sort of action. He also claims that the deed is illegal. It is a bit rich for a Minister to say he cannot commit future Governments to deduct union fees when his Government has committed future generations to contracts worth hundreds of millions of dollars and has not batted an eyelid. The Minister is being hypocritical.

The Minister also stated that he had evidence to support his claim that the deed was illegal. The union is of the view that the deed is legally binding. That issue will be resolved in the not too distant future. The Minister said that his legal adviser said it was illegal and he asked why the Lawrence Government made a major decision to enter into such a deed to commit not only her Government but future State Governments forever while it was in caretaker mode leading up to a state election. The Minister claims that it was an outrageous act by Carmen Lawrence as Premier in caretaker mode.

I put on public record that it is absolutely rich that the Minister for Labour Relations should adopt this position and take this high moral attitude to the deduction of union dues while, firstly, the Government makes deductions on behalf a range of other agencies and, secondly, the Minister talks about the rights, responsibilities and the roles of caretaker Governments when we remember his protecting the actions of the then Minister for Planning. On 29 January the Minister for Labour Relations stated that he refused to release any details of any further planning decisions made by the then caretaker Minister for Planning. That is hypocritical of the Minister beyond any point of reason.

Question put and passed.

House adjourned at 10.28 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

WATER RESOURCES - LEGISLATIVE CHANGES

Public Response

784. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

(1) How many people responded to the advertisement in *The West Australian* on August 16, 1997 concerning changes to water law?

(2) How many attended the seminar on August 21, 1997?

(3) How many have registered interest in attending future seminars?

(4) How many have sought the information pack?

Hon MAX EVANS replied:

(1) There were no records kept, however, approximately 40 telephone enquiries were received.

(2) There were no records kept, however, approximately 80 people attended.

(3) 51 registrations have been received.

(4) No records have been kept, however, 1700 sets of the discussion papers have been distributed, which includes a mailing list of approximately 800.

WATER RESOURCES - JANDAKOT WATER MOUND

Residential Development - Appeal

787. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

(1) What is the current status of the appeal against the Town Planning Appeal Tribunal's decision to allow development of twenty nine residential lots on the Jandakot Water Mound?

(2) Does the Water and Rivers Commission have any contingency plan to protect the water mound if the appeal is unsuccessful?

Hon MAX EVANS replied:

(1) The Town Planning Appeal Tribunal’s decision has been quashed in the Supreme Court. A two hectare Special Rural subdivision is now proposed for the area. This proposal is compatible with planning and water quality protection objectives for the area.

(2) Metropolitan Region Scheme (MRS) amendment (No 981/33) proposes the establishment of a Rural Water Protection Zone and Water Catchments Reservation. This will ensure that the requirements for water quality protection must be addressed through the land use planning process, thus eliminating potential for inappropriate development over this important drinking source.

CRIMINAL INJURIES COMPENSATION - APPLICATIONS

Number and Delay

976. Hon N.D. GRIFFITHS to the Attorney General:

(1) Since April 1, 1997, how many Criminal Injuries Compensation applications have been -

(a) made;
(b) approved; and
(c) refused?

(2) How many applications are still to be processed?

(3) What is the current delay in processing Criminal Injuries applications?

Hon PETER FOSS replied:

(1) (a) 575.
(b) 381.
(c) 178.

(2) 2607.

(3) 693 days.

FISHERIES - KIMBERLEY DEMERSAL LINE INTERIM MANAGED FISHERY

Licences

980. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

Are licences in the Kimberley Demersal Line Interim Managed Fishery transferable or non-transferable?

Hon E.J. CHARLTON replied:

Interim Managed Fishery Permits in the Kimberley Demersal Line Interim Managed Fishery are non-transferable.

FISHERIES - NORTHERN DEMERSAL SCALEFISH INTERIM MANAGED FISHERY

Management Plan - Licences

981. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

Will the Minister for Fisheries clarify what number of licences will be issued under the proposed Northern Demersal Scalefish Interim Managed Fishery Management Plan, and specifically -

(a) will there be the same number of licensed operators as currently exists under the present arrangements (i.e. about 22); or

(b) will there be a lesser number of licensed operators, in line with the decisions made following the working group process (i.e. about 11)?

Hon E.J. CHARLTON replied:

The entry criteria approved by myself provides that an anticipated 11 permits will be granted to access the offshore zone of the Northern Demersal Scalefish Interim Managed Fishery.

(a) This is ten less than the number of authorisations that exist when considering the combined total in both the Kimberley Trap Fishery (9), and the Kimberley Demersal Line Interim Managed Fishery (12).

(b) Yes.

QUESTIONS WITHOUT NOTICE

MAIN ROADS WESTERN AUSTRALIA - ACTING COMMISSIONER

Letter to the Editor - Breach of Administrative Instructions

924. Hon TOM STEPHENS to the Minister for Transport:

I refer to the letter of the Acting Commissioner of Main Roads to the Editor of *The West Australian* published on Monday.

(1) Did the Minister or any of his staff see that letter in its final or draft form or were they made aware of its contents before it was published?

(2) Is the Minister concerned that the letter clearly breaches administrative instruction 728(3)(c), which states inter alia "public servants should not publicly criticise any political party, its actions or its policies"?

(3) What action will the Minister take to ensure the acting commissioner complies with this instruction in future?

Hon E.J. CHARLTON replied:

(1)-(3) I do not remember seeing the letter prior to its going. However, it is time that the public of Western

Australia was told the truth about what goes on in this State by people who have been given responsibility to give to the public the facts about the Fremantle eastern bypass and the Graham Farmer Freeway. I cannot believe the rubbish and the totally inaccurate statements by the media and especially the print media. It is one thing for a member of Parliament to play politics and to attempt to mislead people. However, it is a tragedy when innocent people in the community are not given the facts. In this case, the Acting Commissioner for Main Roads was only attempting to draw attention to the facts of this matter. If I went to the media and said that I wanted to put the truth of the matter before the people of this State, they would say, "Here goes the Minister for Transport and the Government playing their game of politics." It is wonderful for the people who have responsibility for these matters to act properly by placing the facts before the people of this State.

SHIPPING - EMERGENCY POSITION INDICATING RADIO BEACONS

Compulsory - Information Campaign

925. Hon MURIEL PATTERSON to the Minister for Transport:

With the recent successful rescue of the fishermen east of Esperance aided by the use of a portable emergency position indicating radio beacon -

(1) When will EPIRBs become compulsory for all recreational boat owners?

(2) What sort of information campaign will be mounted to notify boat users of the new safety requirements?

(3) How does the department intend to enforce the regulations?

(4) What are the penalties for failing to comply with the requirements?

Hon E.J. CHARLTON replied:

At approximately 3.00 am on Monday, 20 October, the 45 foot timber commercial fishing vessel *Nerida* grounded on Wickham Island, 6 nautical miles east of Cape Arid and 80 nautical miles east of Esperance. Flares were fired by the two persons on board in the hope that they might be seen by other fishermen based at Cape Arid, but without result. The vessel's marine radio was unserviceable due to the grounding. The crew was able to get ashore to the island with the vessel's EPIRB, which was activated at about 3.30 pm. The EPIRB signal was detected by satellite at 4.18 am and the Australian centre in Canberra chartered an aircraft to localise the signal. The aircraft from the Esperance area located the survivors safe on Wickham Island at 6.40 am. Another fishing vessel operating in the area was contacted and the two crew members were rescued from the island safe and well.

On 10 October, the member for Carine, Mrs Katie Hodson-Thomas, chairperson of the special safety group reviewing the regulations relating to the compulsory carriage of EPIRBs by vessels in Western Australian waters, announced changes to the regulations. These will require vessels operating more than two nautical miles from the Western Australian mainland foreshore or 400 metres from an island to carry an EPIRB. In order to allow time for boat owners to purchase an EPIRB, the regulations will not come into force until October 1998. EPIRBs cost approximately $220.

The Esperance rescue is an excellent example of the effectiveness of EPIRBs in locating vessels in distress. Within just over three hours of the EPIRB activation, a search aircraft was overhead and a rescue vessel was on its way to recover the survivors. It is also relevant that the survivors tried to use all other available methods of alerting their distress situation without effect. The flares were not seen and the radio was unserviceable. In such circumstances, an EPIRB is the only reliable means of alerting the authorities of distress at sea and indicating the position. I am sorry about the length of the answer, but it is an important matter. As such, the device is capable of saving lives and the wisdom of the Government's recent announcement on EPIRBs has been amply demonstrated.

(1) EPIRBs will become compulsory for private boat owners in October 1998.

(2) Details of the new EPIRB regulations are included in the "Official Western Australian Boating Guide" published by the marine safety unit of the Department of Transport. This booklet has been or will be posted to each of the 54 000 registered boat owners with their regulation renewal advice during the year. Amended boating safety equipment signs will be positioned at all launching ramps in the near future. In addition, marine officers on patrol and boating safety education staff will be promoting EPIRBs and the new regulations by media opportunity, informal contact and formal presentation during the coming year.

(3) The new regulations will be enforced by routine and targeted safety equipment checks carried out by Transport marine officers and those Fisheries and police officers authorised under the Marine and Harbours Act. Such checks are carried out prior to launching at boat ramps and while vessels are at sea.

(4) The current infringement notice on the spot fine for failure to carry items of safety equipment is $100. The maximum penalty is $500.

MINING - FLARED GAS

Offshore Vessels - Reduction

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

(1) Has the Department of Minerals and Energy made any attempt to reduce the levels of flared gas from offshore oil and gas production and exploration vessels?

(2) If so, what action has been taken?

(3) Has the Department of Minerals and Energy given any instructions or advice to Woodside Petroleum about the flaring off from the *Cossack Pioneer*?

(4) If so, what was the instruction or advice, on what occasions did it give this advice, and what is the total amount of gas estimated to be flared off in WA in 1995-96 and 1996-97?

Hon N.F. MOORE replied:

In view of the time it will take to get this information, I ask the member to place the question on notice.

FISHERIES - MANAGEMENT ADVISORY COMMITTEES

Industry Representatives - Appointment

927. Hon HELEN HODGSON to the Minister representing the Minister for Fisheries:

With reference to management advisory committees established under the Fish Resources Management Act -

(1) How many industry representatives are on each MAC and on what basis were they appointed?

(2) Has the Fisheries Department or any of the MACs established guidelines for the disclosure of an interest in a matter under discussion?

(3) What are these guidelines?

(4) Could this have the effect of having a sector of the industry or a particular zone unrepresented during debate on that sector or zone?

(5) Could this have the effect of limiting the information available to a MAC during debate?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The answer is three pages long; it is very comprehensive. If the member is happy, I seek leave to table the answer.

The PRESIDENT: I do not want three and a half page answers as much as I do not want three and a half page questions. Standing Order No 140(a) states clearly that questions shall be concise and explains what they should not contain. The Minister seeks leave to table that document.

Leave granted. [See paper No 917.]

MINING - ALCOA OF AUSTRALIA LTD

Transport of Class 8 Corrosive Liquids - Australian Standards

928. Hon GIZ WATSON to the Minister for Mines:

(1) Do trucks operated by Alcoa Australia or its contractors comply with all Department of Minerals and Energy requirements and Australian Standard 2809 parts 1 and 4 when they transport class 8 corrosive liquids along both public and private roads from Alcoa's Kwinana refinery to the mud lake residue area at The Spectacles?

(2) Does Alcoa and all its contractors adhere to the Department of Minerals and Energy requirements and the Australian Standard 2809 for the transportation of dangerous goods in bulk when departing any Alcoa site and travelling on public roads?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Alcoa does not transport any class 8 corrosive liquids.

(2) Alcoa has a quality assurance system in place to ensure that it and its contractors comply with all relevant Western Australian Statutes, including those of the Department of Minerals and Energy. Adherence to this quality assurance system is regularly monitored by the department.

TOURISM - BRAND WA ADVERTISING CAMPAIGN

Marketforce Advertising - Contract

929. Hon KEN TRAVERS to the Minister for Tourism:

Some notice of this question has been given. I refer to the Western Australian Tourism Commission's decision to award an advertising contract to the company Marketforce in December 1995 despite the commission's own expert selection committee's recommending the contract go to another company, 303, on the basis that it achieved the highest score in the selection process, and ask -

(1) Did the then Minister for Tourism, or any of his staff, have any discussions or involvement with WATC officials in the awarding of this contract?

(2) If yes, what was the nature of those discussions or that involvement?

Hon N.F. MOORE replied:

The members' preamble to the question implies that an improper decision may have been made. I refer him to the question he asked yesterday and the answer given, which describes in detail the way the contract was awarded.

(1) Given the limited time frame, I have been able to contact only four of the WATC commissioners who made the decision and who are still board members, including the chairman and three members of the selection committee, who advise that no such discussions took place. I will continue to seek advice from the other commissioners and the selection panel members.

(2) Not applicable.

LEGAL AID - COMMISSION

Commonwealth-State Committee - Report

930. Hon N.D. GRIFFITHS to the Attorney General:

(1) Did the commonwealth-state committee established on 25 August 1995 to review the operations of the Legal Aid Commission provide the Attorney with a written report when it reported on 9 September 1997?

(2) Will the Attorney table a copy of the report?

(3) If so, when? If not, why not?

Hon PETER FOSS replied:

(1)-(3) The report that I have received is a recommendation that we cease -

Hon N.D. Griffiths: Was it written?

Hon PETER FOSS: It was a letter suggesting that we do not finish the review, and I have agreed to that. I do not know that I should normally table correspondence suggesting those things. However, I can inform the member of the content, and that is to cease the review.

SCHOOLS - PRINCIPALS

Equal Opportunity Act - Breaches

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

Some notice of this question has been given. I advise the Leader of the House that I have deleted the preamble to the question provided to him.

(1) Did Mr Home tell the Equal Opportunity Tribunal that school principals would be financially accountable

for any adverse impact if they breach the Equal Opportunity Act and, if an award of damages were made against the department for a breach of the Act, the principal's school budget would be debited accordingly?

(2) Is the Minister aware that awards of damages for breaches of the Equal Opportunity Act and equivalent commonwealth discrimination legislation have recently ranged from $20 000 to $92 000?

(3) Is it the Minister's intention to debit these amounts from school budgets if awarded by a relevant tribunal?

(4) Will any legal costs awarded against the department also be debited from these budgets?

Hon N.F. MOORE replied:

As a matter of clarification, the question provided to me had a preamble of three or four lines. I suspect that that is part of the question. If the member decides not to ask it then he has not asked the question provided.

The PRESIDENT: The Leader of the House has the option of answering the question. Some preambles that members have been giving in recent times have contained inferences and imputations, and that is wrong. It is certainly against the standing orders. The Leader of the Opposition has asked his question and it is up to the Leader of the House whether he answers it.

Hon N.F. MOORE: I acknowledge that. The slight difficulty I have is that we have developed in this Chamber a process of questions without notice of which some notice has been given. The answer is given - although in this case I will request that the question be put on notice - on the basis of the whole question having been asked. If the member then asks an abbreviated version of the original question, I might not be able to give any answer.

The PRESIDENT: If the Leader of the House is not satisfied with the question that has been asked - that is, that it is not the question of which he was given notice - he has the option of not answering.

Hon N.F. MOORE: I ask that the question be placed on notice.

DIRECTOR OF PUBLIC PROSECUTIONS - JOHN McKECHNIE QC

Comments on Supreme Court Security

932. Hon DERRICK TOMLINSON to the Attorney General:

(1) Is the Attorney General aware of an article by Grace Meertens in *The West Australian* this morning under the heading "DPP says security threatens top court", in which it is reported that the WA Director of Public Prosecutions, John McKechnie QC, has warned that the safety of juries, witnesses and court staff is at risk because of security problems at the Supreme Court?

(2) Has the DPP advised the Attorney General of his concerns?

(3) Have those concerns been evaluated?

(4) If those concerns are justified, what action is the department taking to improve security at the Supreme Court?

Hon PETER FOSS replied:

(1)-(2) I have received a letter today from the DPP saying that the report in *The West Australian* is grossly inaccurate.

Several members interjected.

Hon PETER FOSS: "Once again inaccurate" is probably correct. He and I suggest that if members want to know what he advised they should read the paper tabled in this House.

(3) The Government has for some time been endeavouring to obtain agreement from the various parties involved in the construction of courts on a method by which to proceed towards a collocated Supreme Court and District Court. I hope that such a recommendation acceptable to the Government will be forthcoming. Until it is, it is difficult to proceed.

MINING - COAL

Wesfarmers Coal Ltd - Removal of Noise Monitoring Device

933. Hon CHRISTINE SHARP to the Minister representing the Minister for the Environment:

(1) Can the Minister give reasons why Wesfarmers Coal Ltd was permitted to remove its noise monitoring

device from the Shotts area near Collie six months ago despite ministerial conditions placed on the company which seek to verify company compliance with the noise environmental management plan?

(2) Is the Minister aware that the residents of Shotts are subjected to dust generated by Wesfarmers Coal Ltd only 60 metres from their front doors while the dust monitoring device stipulated by the ministry is 2 kilometres away?

(3) What enforceable conditions will the Government place on Wesfarmers Coal Ltd in order to safeguard the residents of Shotts from noise and dust pollution from Wesfarmers Coal Ltd's coal handling plant due to commence operation in December this year?

Hon Greg Smith: Mr President -

Several members interjected.

The PRESIDENT: Order! Everyone is entitled to ambition.

Hon MAX EVANS replied:

He probably would have provided a better answer!

Several members interjected.

Hon MAX EVANS: I thank the member for some notice of this question. The answer requires investigation by a number of government departments and I request that it be put on notice.

SPORT AND RECREATION - ARTIFICIAL SURFING REEF

Cottesloe

934. Hon E.R.J. DERMER to the Minister for Sport and Recreation:

(1) When is the construction of the artificial surfing reef at Cottesloe due to commence?

(2) When will construction be completed?

(3) When will people be able to surf on the new reef?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Planning for the construction of the reef is continuing. This involves a complex process of consultation with environment groups, local authorities and other government agencies. Onshore impacts relating to the project are now being considered. All offshore reef design is complete.

(2) Completion of the reef will be conditional on the date of commencement of construction and the duration of construction.

(3) This will be dependent on the date of commencement of construction and the length of time of construction.

EQUAL OPPORTUNITY ACT - EXEMPTIONS

Minister for Education - Establishment of Task Force

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

Further to question without notice 918 of yesterday -

(1) Did the Equal Opportunity Tribunal recently grant the Minister's application for a further exemption from the operations of the Equal Opportunity Act to 31 December 1997 on condition that his department establish an equal opportunity task force by Friday, 24 October 1997?

(2) What progress has the Education Department made in the establishment of the task force?

(3) Who are the members of the task force and which organisations do they represent?

(4) Will country teachers affected by the tribunal decision be represented on the task force?

(5) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The task force has been constituted and its first meeting is being held today.

(3) Membership of the task force comprises a representative from each of the organisations that were respondents at the Equal Opportunity Tribunal hearing and a number of senior departmental officers. The members of the task force are Mr Stephen Home, Executive Director Human Resources, Education Department; Ms June Williams, Commissioner of the Equal Opportunity Commission; Ms Maxine Murray, Director of Equal Opportunity in Public Employment; Mr Tony Misich, the President of the WA Primary Principals' Association; Ms Ros Ford, the President of the WA Secondary Deputy Principals' Association and Ms Rose Moroz, representing district directors. Other members of the task force include Education Department personnel who carry direct responsibility in the areas of work covered by the Equal Opportunity Tribunal's decision.

(4) Country teachers are represented on the task force through their respective associations, the WA Primary Principals' Association and the WA Secondary Deputy Principals' Association, and by the representative of district directors across the State.

(5) Not applicable.

DISABILITY SERVICES - MS LIZ CARROLL

Support

936. Hon RAY HALLIGAN to the Minister representing the Minister for Disability Services:

It was reported in today's *The West Australian* that Ms Liz Carroll had to return to Victoria because Western Australia's disability services were inadequate. Could the Minister advise what services are available for people in Ms Carroll's circumstances?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

People in Ms Carroll's circumstances are able to access services in two major ways. First, they are able to choose to manage their own accommodation supports themselves with funding and assistance through the Disability Services Commission's local area coordination program. Second, they have the option to have their accommodation support funding go to an agency which manages and coordinates the supports for the consumer.

The Minister has acknowledged that although Ms Carroll did have some difficulties getting the support she wanted it was not accurate to generalise that Bunbury is lacking in services and supports. Approximately 150 people with disabilities or their families access funding for a range of services through the DSC's local area coordination program as well as through the South West Family Support Association, which is funded by the State Government for $433 366 per annum. A range of accommodation and support services are also provided through other non-government agencies such as the Activ Foundation.

The DSC recently conducted a public tender process to increase the number of accommodation support provider agencies in recognition of the need to create more options in both metropolitan and country areas. In addition, services in country areas such as Bunbury have benefited and will continue to benefit significantly from this Government's commitment to provide $125.5m in additional funding for disability services over a five year period up to the year 2000. This has included providing an additional $6.04m for the expansion of the local area coordination program. Bunbury now has four local area coordinators who assist approximately 250 people to access services and supports, as well as provide funding directly to consumers to choose the supports required.

This additional funding has also seen significant additional resources for increased accommodation places, respite, therapy, aids and equipment for people inappropriately placed in large congregate facilities. However, I do not pretend that this will completely solve the problem.

The number of people with disabilities is growing at a faster rate than the rate of population growth and funding must keep pace with demand for services. The Commonwealth Government, which shares responsibility for people with disabilities, must also now meet its share of the cost of services. It has been frustrating and disappointing that to date the Commonwealth has not been responsive. I can assure the House that my colleague, Hon Paul Omodei, will be

raising this matter with the new federal Minister for Family Services, Hon Warwick Smith, at their meeting in November and will be putting the Western Australian case in the strongest possible terms.

ALINTAGAS - EMPLOYEES

North West Gas Pipeline Sale - Information Memorandum

937. Hon HELEN HODGSON to the Leader of the House representing the Minister for Resources Development and Energy:

In reference to answers provided by the Minister to questions asked on Wednesday, 18 June 1997 -

(1) Has the information memorandum that the Minister indicated would be provided to all potential buyers of the north west gas pipeline been prepared?

(2) Has the information memorandum been provided to all potential buyers of the pipeline?

(3) Does the information memorandum contain information regarding any provision for AlintaGas employees' entitlements to -

(a) accrued annual leave;
(b) accrued sick leave;
(c) accrued long service leave;
(d) other accrued leave; and
(e) superannuation, either by way of lump sum or pension

on transfer to the buyer?

(4) What information, if any, was provided regarding employee entitlements to superannuation?

(5) Will the Minister table the information memorandum?

(6) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) It has been provided to all those who signed a confidentiality agreement.

(3) Yes, the information memorandum indicates that the post-sale terms of employment should be no less favourable than current arrangements and the acquirer will need to ensure that at least the minimum superannuation arrangements which comply with the Commonwealth Government's superannuation guarantee contributions are adopted. Detailed information relating to each specific entitlement has not been finalised.

(4) None.

(5) No.

(6) It contains commercially sensitive material.

PLANNING - LAKE PINJAR

Purchase of Land by Government Instrumentalities

938. Hon GREG SMITH to the Attorney General representing the Minister for Planning:

The Pastoralists and Graziers Association has raised recently the issue of government agencies being involved in land deals that have resulted in the forced transfer of private land into the hands of the Government without proper reason or consultation and in particular has highlighted the example of Lake Pinjar.

(1) What were the reasons behind the transfer of property at Lake Pinjar and what consultation took place before and has taken place since with the landowners in question?

(2) What has been the impact on property values since the Government commenced purchasing properties at Lake Pinjar?

(3) Which government agency or agencies have been responsible for purchasing land at Lake Pinjar?

(4) Has any property been transferred between government agencies since purchase from private owners?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The Pastoralists and Graziers Association has made representations to the Minister for Planning, the Premier and the Minister for Water Resources on behalf of the Private Property Rights Movement making a number of claims in respect of the planning process. The association has asserted that the Government is deliberately forcing down values as part of an intergovernmental agency conspiracy. The Government has rejected these claims.

With regard to Lake Pinjar, the land is almost entirely within the Gnangara priority 1 groundwater source protection zone and was recommended in 1983 by the Environmental Protection Authority for reservation for parks and recreation for a regional park to protect the eastern chain of the Wanneroo wetlands.

It is important to note that in late 1994, as a result of an approach by a number of concerned Lake Pinjar landowners who were uncertain of their future, the former Minister for Planning, Richard Lewis, made a commitment to them that the Western Australian Planning Commission would not resume their properties and that to further protect their rights while planning in the area was advanced, a planning control area would be declared. This would ensure that if landowners were affected from continuing their operations they would have full access to compensation if they so chose. Planning law dictates that fair market value be paid as if the land were unaffected by any controls imposed.

The decision to introduce the planning control area was also taken to fulfil, in part, commitments made to replace priority 1 source protection zone land included in the Ellenbrook project and to allow further planning to define areas to be reserved for the Gnangara Regional Park.

The Minister for Planning has met with a number of Pinjar landowners and the Pinjar Landowners Group to discuss their ongoing concerns. The Pinjar Landowners Group has membership on the Gnangara Land Use and Water Management Strategy Advisory Committee and has provided input to the draft strategy which outlines land use consistent with protection of the Gnangara mound. This is in part a response to the report of the parliamentary Select Committee on Metropolitan Development and Groundwater Supplies.

(2) Contrary to the comments of the PGA that land prices have been depressed, a full analysis of all property purchases at Lake Pinjar shows that prices have in fact increased as a result of the Western Australian Planning Commission entering the market.

(3) The WAPC has been responsible for purchasing the land.

(4) The WAPC has transferred a number of properties at Lake Pinjar to the Water and Rivers Commission which will not be required for the Gnangara Regional Park. The lands have been transferred, at cost, for future groundwater protection. One property has been transferred to the Crown for vesting in the Water and Rivers Commission as a crown reserve as part of the Ellenbrook commitments. The WAPC transferred this lot at no cost.

INDUSTRIAL RELATIONS - WORKPLACE ACCIDENTS AND INJURIES

Decline

939. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Labour Relations:

Further to question on notice 874 dated 10 September 1997 -

(1) I refer to the Government's claim that the number of workplace accidents and injuries are declining. Can the Minister for Labour Relations justify this claim, given that the number of claims for disabilities has increased from 54 947 in 1994-95, to 59 476 in 1995-96, and to 63 243 in 1996-97?

(2) Can the Minister explain why the compensable journey claims were abolished in the Workers' Compensation and Rehabilitation Act on the pretext that it would save large sums of money, given the relatively small number of claims in 1991-92 being 2 972 and costing $117 618, and in 1992-93 being 2 911 at a cost of $112 116?

(3) Was the Minister aware of the costs of compensable journey claims when he made the changes to the Workers' Compensation and Rehabilitation Act in 1993?

(4) If so, did the Minister try to mislead the Western Australian public by saying that substantial savings would be made when, in fact, the costs of those claims were minimal?

Hon PETER FOSS replied:

I thank the member for some notice of this question. I should mention that notice of this question was given on the twentieth. Yesterday I pointed out to the member the fact - not just a claim, which she has no doubt forgotten - that there was an error in the answer to the question in that what was shown as being the value was the number of days lost. I notice that she has not had the capacity to change the question. It is still suggesting that there might be some misleading of the House or the pubic. I just point out to the member that I have already corrected this answer, prior to her asking me this question today. Surely she has sufficient versatility to address that. I will now give the member an answer to the question which will repeat the correction I gave yesterday.

(1) The member should be aware that data provided at any time represents a snapshot and is constantly changing. Also the 1996-97 statistics must be interpreted with caution as they reflect a combination of actual and estimated claim numbers. The figures provided in the response of 10 September to the member cover all claims; however, when lost time claims and associated frequency rates are analysed, the frequency rate for severe injuries - that is, cases of 60 days or more duration - has declined from 2.81 per million hours worked to 2.34 per million hours worked in 1996-97. The number of lost time injuries has declined from approximately 29 000 in 1994-95 to 28 000 in 1995-96.

(2)-(4) I repeat my apology of yesterday to Hon Ljiljanna Ravlich and to the House in relation to part (5) of question on notice 874. I repeat the information I provided yesterday, because it was not correct. The figures indicated -

Hon Ljiljanna Ravlich: You should have known about this.

Hon PETER FOSS: Having given the member the information, I think it is a waste of time because she does not pay any attention.

Hon Ljiljanna Ravlich: Just answer the whole question.

Hon PETER FOSS: I will repeat the answer again because if I tell the member again, she might just get the gist of it. The figures indicated under cost were, in fact, for days lost. That is what I said yesterday. I advise that the gross cost of journey claims was $10.3m in 1991-92, $10.7m in 1992-93, and $6.5m in 1993-94. I also advise the member that the gross cost for journey claims in 1996-97 was $489 435, indicating significant savings as a result of the 1993 amendments. In view of this, the Government was quite justified in taking action to review journey claims.

EDUCATION - TEACHERS

North West - Level 3 Assessors

940. Hon TOM HELM to the Leader of the House representing the Minister for Education:

In reply to question without notice 917 on Tuesday, 21 October, the Minister said that north west teachers were not precluded from applying to be level 3 assessors. I thank the Minister for the answer; however, it did not respond to the question that I asked. I asked whether they were precluded from being level 3 assessors. The letter to David Wanstall from Geoff Stewart of Nexus HR Solutions and dated 9 September 1997 states -

> With regret, therefore, I have to advise that we are unable to include you. The original offer of a position was made without reference to the procedure and its implications for people without a geographically approximate partner. I regret the disappointment this may have caused.

(1) Can the Minister explain the letter?

(2) Given that David Wanstall met all the requirements of a level 3 assessor, why was he not successful?

(3) Will the Minister give his interpretation of the principle of sections 8(c) and 8(d) of the Public Sector Management Act?

Hon N.F. MOORE replied:

I am not sure whether I am here to give an interpretation of the Public Sector Management Act; however, I will have a go.

Hon Tom Helm: You said it wasn't breached. Tell us what it means then.

The PRESIDENT: Order! Perhaps we should let the Leader of the House have a go at telling us what it means.

Hon N.F. MOORE: I thank the member for some notice of this question.

(1) The letter received from Geoff Stewart of Nexus HR Solutions informs the applicant of the assessment procedure which required assessors to work in pairs. Mr Wanstall was selected on merit for an assessor's position. However, there was no geographically approximate partner for Mr Wanstall in the north west, so he could not undertake the duties of an assessor.

(2) David Wanstall was selected as meeting the requirements for assessors; however, he could not undertake the work of an assessor as procedures require a geographically approximate partner to carry out the assessment. There were no other successful applicants in the north west.

(3) I am advised that all assessors were selected on merit so the principle of sections 8(c) and 8(d) of the Public Sector Management Act were agreed to.

Hon Kim Chance: Unless you are in the bush and then you miss out.