



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE COUNCIL

Thursday, 1 May 1997

Legislative Council

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

PETITION - LIVE SHEEP TRADE

Opposition

Hon B.M. Scott presented a petition, by delivery to the Clerk, from 14 people opposing the continuation of the live sheep trade.

[See paper No 408.]

SUSPENSION OF STANDING ORDERS

Notice Discharged

On motion without notice by Hon Tom Stephens (Leader of the Opposition) resolved -

That Notice of Motion No 7 be discharged from the Notice Paper.

MOTION - COMMISSION ON GOVERNMENT RECOMMENDATION 263

Implementation

Resumed from 30 April.

HON J.A. COWDELL (South West) [11.09 am]: I was bringing to the attention of the House yesterday, and I continue today, a matter of considerable importance; that is, the calling of a people's convention to make recommendations to the Parliament on the Constitution of Western Australia, particularly in line with recommendation 263 of the Commission on Government. Members are aware that yesterday I presented a number of arguments and I will proceed from there. Yesterday I specifically referred to the fact that this motion is to honour an electoral pledge by the Australian Labor Party given in its election manifesto last year; that is, a pledge by the Labor Party's parliamentary leader Dr Gallop that if elected a Labor Government would, within 12 months, convene a people's convention, the majority of whose delegates would be popularly elected.

Although we are not in a position, as the Government of this State, to honour that pledge, we nevertheless seek to honour and implement that pledge by prevailing upon the coalition Government to have a people's convention, a state constitutional convention. Yesterday I reminded members that the Government had made certain pledges with respect to a people's convention. I pointed out that the Government's initial response to the reports of the Commission on Government, volume 1 to No 5, which I have with me, was not very encouraging, particularly to recommendation 263. In its formal response in October last year, the Government said that it was not very keen on a people's convention, but that it was willing to hold one after the Commonwealth held its constitutional convention and amended its Constitution. It was a double trigger mechanism: First, the Commonwealth must hold its convention; and, second, the Commonwealth Constitution must be amended, and the State would start from there. Of course that sort of trigger may not be activated for 10, 20 or 30 years.

The argument for this was quite spurious, on the basis that what the Commonwealth was doing with respect to amending its Constitution could render null and void any good work done by a state people's convention. We know the Commonwealth has defined very narrowly the subject for its constitutional convention. Its nature is such that it is unlikely to affect anything a people's convention in Western Australia would consider, particularly, as outlined in this motion, the 13 areas the Commission on Government suggested be considered by the State people's convention.

As I said, hope springs eternal. In response to public dissent, to criticism, the Premier refined the Government's pledge and removed the caveats on it. His comment, reported in *The West Australian* of 18 November, was straightforward. The article states -

. . . following University of WA politics Professor Patrick O'Brien's attack on the Government's poor performance on reform, Premier Richard Court promised to hold a convention within the next two years regardless of Canberra's intentions.

That was an improvement in the pledge, which we are now looking to the Government to honour. The calling of a people's convention to consider the State Constitution and to report to State Parliament without waiting on Canberra

is, as our soon to be senator will agree, more in line with the independent Western Australian attitude, rather than our waiting on Canberra in this regard.

I pointed to some difficulties with regard to the attitude of various government members, be they senior or self-confessed junior, about this course of action. I think one of those members said by way of interjection that his attitude did not bode well for the progression of a people's convention. In fact, I found other comments of the Attorney General attributed in *The West Australian* when he appeared -

Hon Peter Foss: Stick to the transcript.

Hon J.A. COWDELL: I read the transcript, but I think this is probably accurate.

Hon Peter Foss: That is the only thing that is right, because it didn't say anything that was not in the transcript.

Hon J.A. COWDELL: I read the transcript previously. These are direct quotes.

Hon Peter Foss: They may be direct quotes, but if they were not in the transcript, they are not correct.

Hon J.A. COWDELL: I believe these were in the transcript.

The PRESIDENT: Order! The Minister cannot carry on a conversation.

Hon J.A. COWDELL: A point of concern was that the Attorney General had compared the Constitution to a car mechanic's manual. He said that the owner of the car did not need to understand the manual to take his car in for repairs. He said that this matter should just be left to the Government and everything would be fine. That is an interesting point of view with which Hon Bruce Donaldson no doubt agrees. In this instance the Opposition believes there is a role for the public, although, as I previously pointed out, a limited one.

The Attorney General is quoted as saying -

If you just want to tell people how the system works, you can write it down in a book.

We are hoping to write it down in a book - a consolidated version of the State Constitution - and to have it circulated. The article continues -

He was not saying people should not be involved in amending the Constitution but initiation for change should come from the people who had to drive that "car" - politicians.

We are trying to initiate the process with this motion. It can start only with governmental action in convening a people's convention. With this motion we are attempting to prevail on the Government to take that action and to honour its pledge.

Yesterday I pointed to the Premier's comments on 25 June 1995, when he formally responded to the report of the Western Australian constitutional committee and supported constitutional conventions and popular involvement therein. While not wishing to misrepresent them, those comments were about a commonwealth constitutional convention, nevertheless they are applicable to a similar state body. The Premier's comments were of a general nature about popular and public involvement. Those comments could justifiably apply the conventions at both the state and commonwealth level.

I pointed out that this motion attempts to give effect to the recommendations of the Joint Standing Committee on the Commission on Government. Members will have received that report. The eleventh report dealt with recommendations 72, with some interruptions, through to the final recommendation 263. I pointed out that the joint standing committee, which had a substantial government majority, recommended that recommendation 263 of COG be implemented, not directly in the form as recommended by COG but that there be a people's convention, leaving to the Government the details of that convention and not adopting the precise aspects of the five part recommendation of COG. The joint committee unanimously recommended that.

The joint standing committee decided that recommendation 252 onwards, which were specific recommendations for not only investigation by convention but also actual amendment to the Constitution, should be the subject of consideration by a people's convention. The joint standing committee did not directly adopt those recommendations. The committee felt that some of them might be appropriate for inclusion in the Constitution and that some might not. It was a topic for continued consideration.

Therefore, the joint standing committee felt that a people's convention should consider not only the 13 matters referred to by COG in recommendation 263 but also those other five or six recommendations on specific change.

Then there is the case put not by the joint standing committee but by COG itself. COG in its final fifth report put forward some persuasive arguments on the implementation of recommendation 263. At page 100 COG stated -

During our inquiries, we were told of widespread dissatisfaction with the format and content of the existing constitutional laws of the State. Suggestions were made that the whole State Constitution should be drastically amended or completely rewritten. Not only did question of the amendment process arise, but a wide range of matters that should be considered for inclusion in a new State Constitution, some of which are set out in Appendix 2.

The commission then spent some time canvassing the history of constitutional conventions in Australia and their use in the lead up to the framing of the Commonwealth Constitution. It also referred to the role of conventions in the United States. At page 104 it noted -

The United States of America has a rich tradition of using people's conventions to develop and revise constitutions at all levels.

Perhaps we should not engage in some of those matters, remembering that, I think, the nineteenth amendment on prohibition had to be reconsidered. We in Western Australia have always gone for the more traditional element of local option based on municipal areas. COG quoted Professor O'Brien in these terms -

. . . the only proper means for getting a proper constitution is through a directly-elected People's Constitutional Convention. No Australian state has yet taken such a measure and none has a modern, democratic constitution. A strong recommendation by COG for a People's Constitutional Convention will help to ensure that Western Australia will become the trail blazer of democratic constitutional reform for the whole nation. So please, if not for yourselves, for your fellow West Australians and posterity bite the hard bullet!

COG then analysed the submissions and noted in its analysis with respect to recommendation 263 -

Throughout the State, people were surprised that our constitutional documents were scattered across different statutes, were difficult to access and omitted or were vague on some of the most fundamental structures of Government. Many people went further and advocated more radical change to the constitution. The common theme of nearly all suggestions was the importance of public participation in any process to bring about significant change to the Constitution. The historical development of the Commonwealth Constitution through a process of people's conventions was frequently raised as being the most appropriate method of undertaking a review of the State Constitution.

Then of course COG came down with recommendation 263.

This motion is designed to give effect not only to the joint standing committee's recommendation but also to the COG recommendation in this regard. I pointed out yesterday that if members chose to read the Acts that constitute our Constitution, particularly the Constitution Act 1889, they might be surprised and embarrassed by what is there. I will not go through the sections but it is a matter of considerable regret that our Constitution still mentions not counting Aboriginal people as citizens of this State. That remains in our Constitution. Apart from the fact that we are still referred to as a colony, the Constitution Act 1889 does not recognise the existence of the Commonwealth of Australia; that Western Australia is no longer a colony but a State in that Commonwealth; and that Queen Victoria, may God long preserve her, is no longer on the throne.

Hon Peter Foss: Do you think you would go through all the Acts which mention monarchs and replace their names?

Hon J.A. COWDELL: It was one particular reference to Queen Victoria.

Hon Peter Foss: Other Constitutions refer to her late Imperial Majesty.

Hon J.A. COWDELL: I am sure that is a particular aspect that the Attorney will find hard to replace in any review.

The problem with that document is that about 40 clauses have been removed so far, and one spends half the time reading about the clauses that have disappeared in between the mixture of the incomprehensible, obscure and arcane. I commend to members the 1991 report of the Joint Select Committee of the Legislative Assembly and Legislative Council on the Constitution. In the section headed "The extent to which the constitution can be understood by ordinary citizens" in volume 1 of the report the committee states -

The form of our present documents make it a daunting prospect for any one to attempt to comprehend our Constitution. That prospect is nigh on an impossibility for anyone without a basic knowledge of legislation and how it works.

Another difficulty to understanding our Constitution is the archaic and legal terminology which is used in these statutes. There are many terms and phrases which are unfamiliar to people. The Consolidated Constitution -

Which this committee drafted -

- has tried to improve this situation by adhering to the use of "plain English". There will remain however some terms and phrases that will not be familiar to many people. More can be done to improve its style and choice of words. The work of the Committee has been but a start to this task.

The select committee refers to the fact that the Western Australia Constitution cannot be distributed. The committee refers favourably to the fact that -

The Australian Constitutional Commission printed 205,000 copies -

One of which the Attorney General found, as he commented yesterday -

- of the Australian Constitution for free distribution to people who requested it. This was done in order to stimulate public discussion and awareness about the Australian Constitution.

The committee commented on the difficulty, even for members of Parliament, of tracking down copies of the WA Constitution.

Hon Peter Foss: Did they say how many people wanted those 205 000 copies?

Hon J.A. COWDELL: They were presumably all taken up.

Hon Peter Foss: I do not think they were.

Hon J.A. COWDELL: I am sure they have all been taken up by now. Though not rivalling the Bible, the circulation statistics of the Australian Constitution would easily beat those of the WA Constitution by many thousands of per cent. This motion proposes that we need a people's convention. That is because of the form of the current constitution that was not only commented on by the joint standing committee and the Commission on Government, but also referred to in the report of the Western Australian Constitutional Committee. Recommendation 36 of this committee is that the State's Constitution Acts be consolidated in a single Act in a manner that facilitates teaching about its key functions. Recommendation 32 refers to the need to provide balanced, non-partisan, high quality civic education that is readily available and suitable for people of all ages and background including people who have come from a different political culture. In order to implement those recommendations we must make a start and change the current form of the Constitution.

The Commission on Government presented a case that I commend to members. The commission outlined why those aspects that are outlined in the motion in paragraphs (a) to (m) should be considered. Although this motion refers to those aspects that embody recommendation 263 of the Commission on Government, the Premier's WA Constitutional Committee also raised key matters that could also be considered by a people's convention. In commending this committee's report in 1995 the Premier was obviously endorsing some action in this regard. These aspects need to be considered in a constitutional sense. Recommendation 26 states -

The majority of the Committee considers that if Western Australia became a republic, the office of head of state should carry with it the same powers and duties that are currently exercised and performed by the Governor. The Committee was divided on whether the existing powers and the conventions that govern them should be identified in broad terms in the State Constitution or preserved by including in the State Constitution a statement that they will continue.

That identified the need for some constitutional amendment. Recommendation 27 states -

The exercise of the discretionary power of the head of state of Western Australia should be non-justiciable.

Recommendation 28 states -

Former members of State, Territory or Commonwealth Parliaments should be ineligible for appointment to the office of head of state in a republican Western Australia for a period of five years after leaving Parliament.

Richard Lewis would probably be perturbed by that one. However, that is a sound recommendation that needs to be considered in a constitutional sense.

Hon Peter Foss: It sounds discriminatory to me.

Hon J.A. COWDELL: Recommendation 29 states -

The majority of Committee members favour appointment of the head of state in a republican Western Australia by a two-thirds majority of a joint sitting of both Houses of State Parliament, although the final decision on which method should be adopted at State level could be influenced by the procedure adopted at Commonwealth level.

Recommendation 30 states -

The holder of the office of head of state in a republican Western Australia should have the same security of tenure as State judges.

Hon Peter Foss: Having made a general statement it should be the same as the Governor you then change it.

Hon J.A. COWDELL: That is the reason that this should be further considered. The committee raises questions for consideration in another forum. It is not a direct recommendation for precise legislative action. Recommendation 31 states -

The term of office of head of state in a republican Western Australia should be fixed at five years, and should be non-renewable.

The 1995 report of the Premier's committee provides a set of recommendations that could be on the agenda for consideration by a people's convention that are as valid as the 13 aspects referred to by the Commission on Government.

In its discussion paper of March 1996, "Specified Matter 24 - Discussion Paper - the State Constitution" the commission also referred to other matters that might be considered. The issues for consideration in the contents page, not the particular aspects of the debate, were under the heading, "What should be included in a Constitution" as follows: The role of the Governor and the Executive Council; the role of the Premier; the role and responsibility of Ministers; the size of the Ministry - that is included in this motion - the role and responsibility of members of Parliament, which is not in the motion but may still be considered; Parliament; the relationship of the Government in Parliament; independent accountability officials; the judiciary; and local government. The other aspects of a preamble and a Bill of Rights are in the 13 aspects of my motion.

Certainly the status of the Constitution - constitutional change and entrenchment - is raised. Further aspects such as the constitutional committee's recommendations 26 to 31 could well be considered. I was making the point that the Australian Labor Party believes that constitutional reform must be a partnership. It must involve the people through the election of a people's convention and by providing the majority of delegates for that convention. It must involve the people in voting at a referendum on any clauses that should be entrenched in the new constitution. It must involve Parliament in an initial consolidation of the existing Acts of Parliament that form the Constitution and in consolidating those Acts provide an agenda for the people's convention.

It is my intention to introduce a Bill after 22 May in line with the recommendation of the 1991 Joint Select Committee on the Constitution to consolidate the existing 1889-99 Act. This is an important first step. Also important is initiating the process of convening a people's convention so that having consolidated the existing documents of the Constitution, they may be circulated and considered by the people in choosing their delegates to the people's convention. That convention should then consider in agenda form what would be the currently consolidated Constitution.

Obviously other aspects may have been contained in this motion which I initially contemplated including. I thought that the Commission on Government fulfilled its brief very well and that it may well be reconvened with the specific responsibility of implementing its recommendation 263. I notice the Government has already refused a formal review of the rest of the recommendation, but COG could certainly supervise the process and implementation of recommendation 263.

Any convening of a people's convention should consider the adoption of a republican form of government at this state level and the implications that may result from a change at the national level and those recommendations that pertained to the form of governorship in a republic in Western Australia as pointed out by the Premier's committee.

As I say, I will not now debate the worth of the aspects for consideration recommended by COG. However, members will see by their designation that they are major areas of study; that is, assent of legislation; whether, if Parliament passes legislation, the Governor should assent to that legislation regardless of what the Ministers say. The whole question of a Bill of Rights is an extensive debating area on its own. I think there could be agreement in the community on the embodiment of electoral and certain other rights in our Constitution, even if we did not want to go as far as the American situation.

Certainly a new preamble is long overdue rather than the existing legalistic preambles. I always liked the 1977 preamble - not the Stalinist preamble - of the old Constitution of the Soviet Union. I am sure that some members will be able to propose a similar heroic introduction to our Constitution -

The Great October Socialist Revolution, made by the workers and peasants of Russia under the leadership of the Communist Party headed by Lenin, overthrew capitalist and landowner rule, broke the fetters of oppression, established the dictatorship of a proletariat, and created the Soviet state, a new type of state . . .

Hon Peter Foss: Doesn't it show the uselessness of the Constitution which is so different from the reality.

Hon J.A. COWDELL: Perhaps we could adapt a more modest form.

Hon Peter Foss: Would it be closer to reality?

Hon J.A. COWDELL: Most preambles of the United States are along the following lines -

We, the people of the State of . . . recognizing the rights and duties of this state as a part of the federal system of government, reaffirm our adherence to the Constitution of the United States of America; and in order to assure the state government power to act for the good order of the state and the liberty, health, safety and welfare of the people, we do ordain and establish this Constitution."

Hon Derrick Tomlinson: The republicans have recommended a much more pertinent one than that.

Hon J.A. COWDELL: Indeed, I was just giving two examples. The preamble is important although it is perhaps the least important aspect of this range of matters that should be considered; that is, power of Parliament to recall Parliament, prorogation, recognition of Aboriginal people, resolution of parliamentary deadlocks, the role of local government, appointment and powers of the Governor, and size of the Ministry.

It is time the Government honoured its pledge to the people and convened a people's convention to consider this matter. The Parliament should ensure that action.

Debate adjourned, on motion by Hon Norman Moore (Leader of the House).

MOTION - SELECT COMMITTEE ON POLICE SERVICE

Documents to be Transmitted to Anti-Corruption Commission

HON DERRICK TOMLINSON (East Metropolitan) [11.51 am]: I move -

That -

- (1) The Clerk be, and is hereby so ordered, to transmit forthwith to the Anti-Corruption Commission, all the evidence and associated documents in his possession or under his control, taken or received by the Select Committee on the Police Service relating to the death of Stephen John Wardle.
- (2) The Anti-Corruption Commission shall receive and deal with that evidence and documents in a manner that is consistent with the relevant and appropriate powers, privileges, rights and immunities of this House. Any question arising under this paragraph in the course of any inquiry or investigation by the commission shall be submitted to, and determined by, the President.
- (3) The Anti-Corruption Commission, on completion of its relevant inquiries, shall return to the Clerk all material supplied under paragraph (1) of this order.

The report on term of reference (3) of the Select Committee on the Western Australia Police Service draws attention to three matters which have achieved some degree of notoriety in Western Australia. They are the Argyle diamond affair, the Mickelberg case and the death of Stephen Wardle. People involved or associated with each of those three matters presented written submissions to and subsequently appeared before the committee.

The Argyle diamond affair is subject to continuing police investigation and the Mickelberg case is the subject of a special appeal before the Supreme Court, but the battle continues in the investigation into the death of Stephen Wardle. Matters raised in the committee remain unresolved. Some people hold that the death of Stephen Wardle was satisfactorily explained by the coroner, David McCann, and the subsequent investigation of the then Ombudsman, Mr Eric Freeman. In his report tabled on August 1990, Mr Freeman concluded that the death of Stephen Wardle was an unnecessary death in custody. Since that time Stephen Wardle's parents, Ros and Ray Tilbury, have persisted in trying to have the matter reinvestigated. They have produced forensic evidence which appears to contradict some of the matters addressed both in the Coroner's Court and in the hearings of the Ombudsman's inquiry.

One of the reasons the Tilburys have persisted and one of the reasons the case achieved such notoriety was that the police officers on duty at East Perth lock-up at the time Stephen Wardle died in custody declined to give sworn evidence at the inquest. That resulted in adverse media publicity and public speculation. The Ombudsman's inquiry addressed those matters but did not satisfy the Tilburys, who persisted in their claims that police officers were in some way implicated in the death of their son, Stephen. The select committee chose not to reopen the case to conduct its own investigation because the matters surrounding the case are too complex and the committee could not provide the resources needed to deal with it.

However, in the evidence to the committee the Tilburys made allegations that they had been subjected to continuing police harassment between 1989 and 1994. This had taken several forms. Mr Tilbury told the committee his vehicle had been followed by unmarked vehicles 40 and 50 times over five years; his vehicle had been followed by other vehicles over long distances and late at night; police officers had been unlawfully on their premises when they had been absent from home, and some material, notably a diary and videotape, had been taken unlawfully from their home; their home had been under surveillance by police officers in unmarked vehicles; their telephone had been interfered with; they had been the subject of searches for drugs when they had returned from overseas travel; Mr Tilbury had been searched on three of the four times he had been overseas since 1988; he had been charged with shoplifting a bottle of vitamin pills; friends had been intimidated by police officers; documents had been received from the office of his solicitor, Mr Arthur Auguste; and Mr Tilbury had been charged with perjury, conspiracy to pervert the course of justice and attempting to pervert the course of justice. Since those allegations were made to the select committee Mr Tilbury has been tried on those charges and is now serving a term of imprisonment.

These matters were of such concern to the committee that it recommended that the allegations of Mr and Mrs Tilbury in the matter of the death of Steven Wardle could be resolved only by an independent judicial inquiry.

On 10 March the Premier wrote to me about the Select Committee on the Western Australian Police Service's reference to Steven Wardle and Mr and Mrs Tilbury and advised me that the report was forwarded to the Anti-Corruption Commission. The commission is now giving preliminary consideration to the issues relating to Stephen Wardle and the Tilburys. The commission told the Premier that it needed to see all the relevant evidence and materials collected by the select committee and therefore sought to take the necessary steps to secure the submission of that evidence to the committee without delay.

Because the evidence of the select committee is covered by privilege and is the property of the Legislative Council it requires a motion of this House for those documents to be released. Hence my motion directs that the Clerk deliver those documents to the Anti-Corruption Commission under certain conditions. I commend the motion to the House.

HON N.D. GRIFFITHS (East Metropolitan) [12.00 noon]: On behalf of members of the Australian Labor Party in this House, I support the motion. Hon Derrick Tomlinson gave an accurate view of the matters set out in the report of the Select Committee on Western Australian Police Service. However, my support of the motion should not be seen as accepting that the Anti-Corruption Commission as it is constituted is an appropriate body. Nevertheless, it is the only body currently active in this jurisdiction.

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

STATEMENT - HON DERRICK TOMLINSON

Select Committee on the Western Australian Police Service

HON DERRICK TOMLINSON (East Metropolitan) [12.01 pm] - by leave: I have received the following letter from Assistant Commissioner Mackaay addressed to me as member for East Metropolitan Region dated 16 April 1997; it reads -

Dear Mr Tomlinson

Senior Constable Michelle L Fyfe

Shortly after the release of the Committee's Interim Report on the WA Police Service, Senior Constable Fyfe, through her solicitor, contacted this office and expressed her concern at an inaccuracy relating to her, on page 72 of the Report.

The officer advised that she has never been charged with a criminal offence nor sanctioned for any matter of a disciplinary nature.

Investigations support Senior Constable Fyfe and I accept that the error arose from incorrect details provided to the Committee by this agency. In support thereof I furnish a copy of my advice to the officer's solicitor.

As a consequence, a review of all the statistics was undertaken which identified additional errors. The enclosed matrix contains the corrected information which was gleaned from the Internal Affairs Unit, personnel files and the Police Service database. Corrected details are depicted in italics.

In view of the inaccuracy of some statistics previously furnished to the Committee, and the potential personal and professional damage this may have caused to the individuals identified, I seek your comments on the mechanism available to right this wrong.

I also tender my apologies on behalf of the Police Service for any embarrassment the inaccuracies may, or may have, cause(d).

Your sincerely

J MACKAAY
ASSISTANT COMMISSIONER
(PROFESSIONAL STANDARDS)

I now seek the leave of the House to table the letter and accompanying documents.

Leave granted. [See paper No 409.]

STATEMENT - LEADER OF THE OPPOSITION

Racial and Social Harmony Motion

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [12.03 pm] - by leave: The House will be aware that I have been seeking for some time to bring forward consideration of the order of the day relating to the motion on racial and social harmony. I have approached you, Sir, in an effort to suspend so much of standing orders to enable the motion to be brought on as a matter of urgency.

This motion was moved as one of the first items of this Parliament, and it should be discussed before the arrival in this State tomorrow of the divisive personality who will use government facilities. The House should have the opportunity to give some leadership to the community on this question. I express my disappointment that it is necessary for you, Mr President, to respond to my request with a letter indicating that it will not be possible for the motion to be brought on at this time. Therefore, the motion moved as the first item of business after the Governor's speech cannot be dealt with at this critical time.

ORDERS OF THE DAY

THE PRESIDENT (Hon Clive Griffiths): We now move onto Order of the Day No 1.

Point of Order

Hon JOHN HALDEN: Mr President, I seek clarification. I understand under the new sessional order that between the hours of 11.00 am and 1.00 pm on Thursday we propose to deal either with committee business or matters under the purview of Standing Orders Nos 153 or 155. Standing Order No 153 relates to disallowance motions.

It would seem that the new sessional order - which was proposed to be amended within only one day of its implementation - will again not be adhered to. The primary point of the new sessional order in question was to allow formalised time to be set aside to discuss committee business or matters pertaining to Standing Order No 153.

Hon N.F. Moore: Where does it say anything about SO 153?

Hon JOHN HALDEN: Order 4 refers to "Business on Thursdays", and refers to Standing Orders Nos 153 and 155.

Hon N.F. Moore: That means they take precedence if they are orders of the day. You've misinterpreted the sessional order.

The PRESIDENT: Order! The member is asking me about this matter. He should ask me, and not talk to the Leader of the House.

Hon JOHN HALDEN: I will talk to you, Mr President, and seek your guidance. The new sessional order is clearly subject to Standing Order No 153. Four motions are on the Notice Paper under that provision. The top of the listed motions for disallowance reads "Notice given April 30 moved pro-forma on May 6".

The PRESIDENT: Order! From where is the member reading?

Hon JOHN HALDEN: It is today's Notice Paper. I suggest that we have these four disallowance motions moved pro forma, and I read the sessional order to clarify this point.

Hon Peter Foss interjected.

The PRESIDENT: Order! The member is asking for clarification and I am having a helluva lot of trouble following him. I do not want to be diverted by trying to follow the Attorney General as well.

Hon JOHN HALDEN: I hope I am being clear as this issue needs clarification. New sessional order 4 reads -

Subject to SO's 153, 155 and paragraph (3) of this order, orders of the day that are, or involve consideration of, reports of committees, including joint committees, have precedence on each Thursday over other orders of the day until 1.00 pm.

I see four motions for disallowance on today's Notice Paper, and these clearly come under the purview of Standing Order No 153. Therefore, as a House we should be moving to the motions of disallowance. A particular reason for agreeing to the sessional order was to allocate specific time so committee reports and matters relating to Standing Order Nos 153 and 155 could be dealt with.

Hon N.F. Moore: When they are orders of the day.

Hon Kim Chance: They do not have to be.

Hon N.F. Moore: Read the sessional order.

The PRESIDENT: Order!

Hon JOHN HALDEN: I want to talk to you, Mr President.

Hon N.F. Moore: It is a time wasting exercise.

The PRESIDENT: Order! It will not be a time wasting exercise because I will sit the member down in a minute.

Hon JOHN HALDEN: I intend to finish in a moment.

The PRESIDENT: I will not respond until the member has finished.

Hon JOHN HALDEN: I am about to conclude my remarks. On the basis of the new sessional order, what is contained in Standing Order No 153, and what is contained in the Notice Paper, these motions for disallowance should be taken as the next step in the business of the House today. We have gone through an exhaustive two year process to guarantee that will happen and it is appropriate that we deal with that item of business at this time. Mr President, I ask you to clarify why that should not happen.

Hon KIM CHANCE: I have picked up a feeling that members opposite believe that this point of order has no standing because the motion which has been referred to by Hon John Halden is not yet an order of the day. I want to be quite clear about the way I read the sessional order in particular, and also the standing order on that matter. As Hon John Halden said, the sessional order states -

Subject to SO's 153, 155 and paragraph (3) of this order, orders of the day that are, or involve consideration of, reports of committees . . .

I understand why the Attorney General and the Leader of the House wanted to point to the fact that Motion for Disallowance No 1 is not an order of the day.

Hon Peter Foss: It has not been moved.

Hon KIM CHANCE: I understand the point the Attorney General is making, but he is wrong. Standing Order No 153(a) states -

Subject to SO's 58 and 156, a motion for disallowance of a regulation . . .

Therefore Standing Order No 153 does not refer to an order of the day, it refers to a motion.

Hon Peter Foss: Keep reading.

Hon KIM CHANCE: I am happy to do that. Standing Order No 153(a) further states -

. . . a motion for disallowance of a regulation takes precedence of all other business from the time that it is moved . . .

Hon Peter Foss: "From the time it is moved."

Hon KIM CHANCE: I accept the Attorney's point there. It continues -

. . . but the debate thereon may be adjourned or otherwise interrupted pursuant to a rule . . .

At the same time, I defend the case made by Hon John Halden; that is, it is not required that it be an order of the day. In fact, it can be in the form of a motion.

The PRESIDENT: Order! I have been here longer than all members. I always say that every time the rules are changed, a problem is created. The people who put our rules in place a hundred years ago were a lot smarter than we are. We tend to overlook some of the fundamental principles that have applied.

Today is the first day that these rules have applied. We have never worked under the rules which relate to the aspect raised by Hon John Halden. The matter that he raised occurred to me when I looked at the Notice Paper before the House sat. However, I came to the conclusion without giving it a great deal of thought that because the disallowance motions had not been moved, they did not come within the scope of Sessional Order No 4(1). I completely got rid of it out of my mind as soon as I did that. I am not sure that either Hon John Halden or Hon Kim Chance have changed my mind because, until they are moved, all they are are words of notice on the paper. They may never be moved unless certain other things occur down the track. It is like other Notices of Motion on the Notice Paper. If a member does not subsequently move them or if he chooses to bypass them for some reason or other, those notices of motion are discounted.

Motions for disallowance of course are different because a subsequent set of circumstances prevail. That makes the position a little different. However, in order not to discount out of hand what honourable members have said, I will leave the Chair for five minutes and examine this matter further.

Sitting suspended from 12.15 to 12.21 pm

Ruling by the President

The PRESIDENT: I have had an opportunity to reflect on the actions of this place in regard to the amendments to the standing orders, particularly in relation to the disallowance of regulations. In responding to Hon John Halden's point of order, I direct his attention to the amendment passed in the House on 31 October 1995, which is an amendment to Standing Order 152 and which added a paragraph as follows -

- (b) If a notice of motion coming within the proviso to SO 143 has not been moved at the expiration of 2 sitting days after the day on which notice was given, that motion is deemed to have been moved *pro forma* on that expiration and SO 153 applies accordingly.

In other words, two sitting days after the day on which notice was given, if the motion has not been moved, it is automatically deemed to have been moved.

The member should also read Standing Order 143, which was also amended on 31 October 1995 by adding -

Provided that a notice of a motion for the disallowance of a regulation has precedence of other notices to be given on that day, and for this purpose "regulation" includes any statutory instrument made subject to disallowance by a written law.

So, my response to the member's point of order is that there is no point of order, that the standing orders take account of the fact that the notice of motion is not, until the expiration of two sitting days, deemed as having been moved. Therefore, Standing Order 153 does not affect the current state of play.

Hon JOHN HALDEN: My understanding of the new sessional order was that this time between noon and 1.00 pm was to be set aside to allow us to consider either a committee report or a disallowance motion. Although I understand what the President has said very clearly, that under Standing Order 143 there is the two-day rule, this time today was to allow us the opportunity, if that rule had not clicked in, to move that way.

The PRESIDENT: I understand what the honourable member is saying, but that is not what the sessional order provides. It refers to the consideration of the committee reports and that is all it does; it does not refer to disallowance motions. I repeat: I was concerned about it myself and I convinced myself without going into any detail that it was not necessary to move them today. Having taken those couple of minutes to reflect and re-examine my documents, I am of the opinion that there is no point of order.

Hon John Halden: I have not even been beaten by the numbers!

Hon N.F. Moore: You are just wrong.

The PRESIDENT: It means that the amendments we have made to the standing orders, which come into effect today, might well need amending to take account of what the member has said. However, in the meantime, they do not.

LABOUR RELATIONS LEGISLATION AMENDMENT BILL

Motion - Second Reading to be Made Order of the Day for 27 May

Resumed from 30 April.

HON E.R.J. DERMER (North Metropolitan) [12.27 pm]: Last night I was referring to an editorial in *The West Australian* of 24 March. I had hoped to conclude my reading of a quote from that editorial so that members would have the chance to consider the gravity of its content before continuing with this debate today.

The editorial is very interestingly entitled "Intransigent Kierath blunders on" and it states -

By exploiting a constitutional technicality - which prevents the new Council from sitting before 22 May - Mr Kierath is deliberately and cynically thwarting the will of the people. He is trying to avoid a review of his Bill by an Upper House elected to be free from domination by the executive and to provide proper scrutiny of the legislation.

This is a serious reflection on the Government's fundamental view of democratic principles and fair play.

If I were a member of either coalition party I would be more than concerned about this serious reflection on the democratic standing of the party and the Government by the principal newspaper in this State. I might be less concerned if it were an isolated instance. However, I remind members opposite that their general reputation for upholding the principles of democracy is tarnished in a number of ways. The most obvious example is the continued malapportionment in the composition of not only this House but also the other place. Here we have *The West Australian* saying that this Government and the parties that comprise it do not respect democratic principles. Members opposite should be grateful to Hon Tom Stephens because this motion gives them an excellent opportunity: By the simple act of supporting this motion, they can in one stroke restore the reputation of the Liberal and National Parties as parties which adhere to the principles of democracy. Their reputation is clearly sullied in the community. As the editorial in *The West Australian* states, this is a serious reflection on the Government's fundamental view of democratic principles and fair play. That concerns me, because I am a keen adherent to the strength of the Westminster system, and I believe that an important part of the strength of that system is constructive engagement and competition between the major parties on both sides. It is concerning from the constitutional point of view that the community has placed a question mark over the commitment that the conservative parties in this State have to democracy, as this editorial illustrates. I hope that members opposite will, for the sake of the Westminster system in this State, and for the sake of their reputation, take the step on this day, 1 May, of voting for the motion moved by Hon Tom Stephens.

Hon E.J. Charlton: Let us exercise our democratic right and have a vote.

Hon E.R.J. DERMER: All in good time.

Hon Bob Thomas: You want to rush things all the time.

Hon N.F. Moore: This was to be finished last Tuesday, according to the agreement I had with your leader.

Hon E.R.J. DERMER: Why is the Minister for Labour Relations pressing on with such indecent haste to have this Bill dealt with by the Parliament? Why is he pressing on with such determination to avoid reasoned scrutiny of this legislation that he is prepared to allow the reputation of his party to be damaged further? Members of the Liberal Party purport to be members of a party which has a commitment to democracy. It must be of great concern that they claim to be members of that party when people in the community have good and sound reasons to question that party's commitment to democracy.

The very title of the Liberal Party should be enough to remind members opposite that they must take steps to restore the reputation of their party as a party which believes in democracy, and Hon Tom Stephens' motion offers them that opportunity. The reason that the Minister is so determined to press ahead and damage the reputation of the Government and his party with regard to their commitment to democracy is that, despite his ideological mind set, he knows that the Labour Relations Legislation Amendment Bill is unreasonable in the extreme and will not sustain thorough scrutiny.

The Federal Minister for Industrial Relations, Hon Peter Reith, is not usually a man who fits my understanding of reasonableness and fair play, but in comparison with the Western Australian Minister for Labour Relations, Peter Reith is an absolute model of balance and reason.

Point of Order

Hon N.F. MOORE: Mr President, I draw your attention to the fact that we are debating whether the second reading of this Bill should be taken at some future date, not the character of Peter Reith or anybody else.

The PRESIDENT: I notice from my list that Hon Ed Dermer spoke on this motion on 29 and 30 April and is now speaking on it on 1 May.

Hon N.F. Moore: This is a 10 minute speech.

The PRESIDENT: Order! I know, but from this list it looks as though the member has been speaking for a long time.

Hon E.R.J. Dermer: Two minutes on the first occasion, Mr President.

The PRESIDENT: Order! That is an aside; ignore it. The point I want to make is that the member should be talking about the motion, not going onto these extraneous things. I let him get away with it because I do not want to hound him too much, this being his first session, but in the interests of getting on with it, I must.

Debate Resumed

Hon E.R.J. DERMER: I am always grateful for your advice, Mr President, and if you would bear with me for a moment longer, the relevance of what I am saying about the federal legislation would become clear. Last year, the Federal Government, led by Hon Peter Reith, succeeded in getting through the Federal Parliament not one but two Workplace Relations and Other Legislation Amendment Bills. The federal legislation was not good legislation because it was deleterious to the essential balance between employers and employees, and it diminished the cause of fairness in Australian workplaces. However, that legislation had enough semblance of reason that the federal Minister was prepared to take on the challenge of getting that legislation through the Australian Senate. That is pertinent to this place, because the numerical situation in the Australian Senate is analogous to what will be the numerical situation in this House after 22 May. The Senate has a smorgasbord of minority parties, and the balance is shared by the Democrats, the Greens and the Independents. The challenge for that Government is to get members from one of those three groups to support the legislation in order to get it through. The Federal Liberal Government had its IR legislation, it took on the challenge, and at the end of the day, with a degree of negotiation and amendment, it achieved the support of the Australian Democrats in the Senate and the legislation was carried.

The political arithmetic of the Legislative Council after 22 May will be closely analogous to the situation in the Senate. Five members of the Legislative Council will be members of either the Australian Democrats or the Greens WA, and in order for the Government to achieve a majority for any one item of its legislation, the probable situation, depending on who is the President's successor, is that the Government will need to gain the support of only one of those five members of this House, in combination with the 17 government members of this House. That is an entirely reasonable proposition. It raises the question: Why is the Western Australian Minister for Labour Relations so determined not to take on the reasonable challenge that Peter Reith and his colleagues so successfully pursued in Canberra that he is prepared to manipulate a constitutional technicality to subvert the will of the people? Those are not my words. Those were the words of the Editor of *The West Australian* on 24 March.

A number of theories could be put in answer to that question. One theory is that reasoned negotiation is not in the character of the Minister for Labour Relations. One can reach that view from an examination of the Bills that Minister has put through this Parliament since he has been the Minister for Labour Relations: The Workplace Agreements Bill, the Minimum Conditions of Employment Bill, the Industrial Relations Amendment Bill, the Workers' Compensation and Rehabilitation Amendment Bill, each presented in 1993, and the Industrial Relations Legislation Amendment and Repeal Bill, which was presented in 1995. All those Bills have a dreadful character. Understanding the standing orders and respecting the President's advice, I will not go into the detail now -

Hon B.K. Donaldson: Has the legislation hurt Western Australia?

Hon E.R.J. DERMER: It has hurt Western Australia gravely.

The PRESIDENT: Order! The member should not deviate from the motion, let alone go into that detail. Talking about the broad issue is not in accordance with this motion. The member must learn that the requirement is that members must address the terms of the motion. They must not take extraneous paths when speaking to a motion.

Hon E.R.J. DERMER: Thank you, Mr President. My honest view is that if we are dealing with the timing of debate of the Bill, the degree to which I have reflected on it is pertinent.

The PRESIDENT: With respect, what is done in another Parliament is not relevant to what is happening here.

Hon E.R.J. DERMER: Thank you, Mr President. I will move on. I need do no more than remind the House of the 30 000 to 40 000 people who made their concerns evident. That was a small but keen sample of the deep concern in the community about this Bill. I understand that concern because it comes from many ordinary working Western Australians. I know how they feel. They are concerned for their livelihood.

The passage of this motion will allow further time for consultation. One need only listen to the radio or read the newspapers to be aware of the misunderstanding between the Premier and the leaders of the trade union movement about negotiations, the preparation of amendments and consultation with the entire community which has concerns about the Bill. If we support the contingency motion moved by Hon Tom Stephens, more time will be allowed to undertake that very important consultation. This returns me to my comments last night about our being constructive in this House, something that will be enhanced by the extension of time for consultation if we support this motion. The level of community concern is enormous. I have not noticed any level of enthusiasm in the general community for the legislation, particularly among business people who are wise enough to understand the importance of good industrial relations and its effect on industry.

I should seek some guidance, Mr President. I wish to address another matter of responsibility which would have higher priority in this place than our debate on the Labour Relations Legislation Amendment Bill. However, my allotted time is coming to an end, so perhaps I will leave that concern until another time.

HON PETER FOSS (East Metropolitan - Attorney General) [12.42 pm]: I wish to clarify matters. It has been suggested that it is worthwhile adjourning this debate so that more public consultation can take place. For some time the Government has been offering to discuss this matter with the Trades and Labor Council but the TLC has refused and continues to refuse to discuss it. Supposedly the reasons for doing so is that the TLC does not want to be seen in any way owning the amendments which might flow from those discussions. That is foolish, and an abdication of its responsibility to the people of Western Australia. It proves that the suggestion that the matter should be further adjourned is a waste of time.

I have made the same suggestion to members opposite: I would like to know what their concerns are. I will be very happy to prepare on their behalf appropriate amendments so that when we discuss those concerns we have a matter for discussion which is not related to the drafting -

Hon N.D. Griffiths: Where are the amendments which the Premier promised?

Hon PETER FOSS: The member should wait. I am happy to have them drafted -

Hon N.D. Griffiths interjected.

Hon PETER FOSS: Will the member be quiet, please!

The PRESIDENT: Order!

Hon PETER FOSS: I said that I would be happy to prepare amendments. I made an offer well over a month ago so that I could have the amendments drafted and could discuss the real issues. The Premier has talked about amendments, but they are not our amendments. They are the amendments which have come forward as a result of the abdication of responsibility by the TLC to deal with this matter. The emergency service unions have expressed concerns. We have expressed our willingness to prepare amendments to meet those concerns. Those amendments are not sought by us. They are the sorts of amendments which should have come from the Opposition if it were doing its job, but it has failed to do its job. We will be happy to prepare those amendments. I will be happy to bring them to this House -

Hon N.D. Griffiths: Where are they?

Hon PETER FOSS: They are being drafted. They are not our amendments. These amendments are being prepared because of a failure by the TLC and the Opposition to bring them forward -

Hon N.D. Griffiths: Who is drafting them?

Hon PETER FOSS: Parliamentary counsel, of course!

The PRESIDENT: Order!

Hon PETER FOSS: The most extraordinary constitutional propositions have been made by members opposite, such as that this is not the thirty-fifth Parliament; it is still the thirty-fourth Parliament; and that this Parliament is illegitimate: That is, the people who were elected to serve for a fixed four year term are not permitted to exercise their vote. That is an interesting concept! First, I will deal with the question of a Parliament. A new Parliament starts when Parliament is dissolved. We had a debate last year, or the beginning of this year, about the use of

dissolution and prorogation. I recall that Hon John Halden put himself up as a great constitutional expert and spoke about how one House alone could not be prorogued. The fact is that a Parliament ends upon dissolution. It is a separate process from prorogation. We could have any number of dissolutions in the course of an upper House. We could have a dissolution every year. We could go from the thirty-fourth, to the thirty-fifth, to the thirty-sixth, and to the thirty-seventh Parliament and still have the same Legislative Council. Parliament changes because of dissolution.

Another interesting suggestion is that it is not legitimate to use one's vote because there has been another election! What was the situation in the days when half of this House was elected at one time? Did the members who were halfway through their term suddenly cease their legitimacy? It is a nonsense in constitutional terms that a person ceases to have a mandate or to be able to exercise a vote. Members opposite have not looked at the Constitution, which says that we are elected for fixed terms. We have always been elected for fixed terms. Whether they be staggered terms or those running together, they are still fixed terms. When the people of Western Australia elected us it was to serve them and to allow us to vote; and we swore we would do so until the time we ceased to be members.

I have been re-elected. Does that mean that I can vote or do I suddenly lose my mandate for a few months of the year because members opposite say we cannot vote in this House? What nonsense it would be. I have not lost my mandate; I have been returned to this Parliament. I do not see how the Opposition's proposition could work. We would have half the members here being able to vote, and the other half not being able to vote. Those who have been re-elected are obviously entitled to continue because they have been affirmed by the people. Members opposite would have us, for some time, being able to vote on non-contentious matters but not on contentious matters. How can one say a vote is non-contentious? We should not be voting if it is non-contentious. That proposition is a load of cobblers.

I am not surprised to hear this sort of constitutional nonsense from the Opposition. I spent my first four years in this Parliament explaining to the then Government what a Parliament was, the difference between Parliament and government, and why we had annual appropriations. One could see the amazement on their faces when members opposite discovered for the first time certain basic things. They were almost fundamental things, but the members occupying the Treasury benches at that time had no idea. It is clear the same members still work out their constitutional law to suit themselves. This is one of the reasons that it does not matter how much it is written down, some people will not understand. Members opposite did not even bother to read the Constitution. If they did, they would acknowledge that they have been talking arrant nonsense.

Hon Ed Dermer said we should wait until the Government loses the numbers in this House - that the Labor Party of all people should propose that that would be the right thing to do! I always thought the Labor Party was pragmatic and believed the end justified the means. Members opposite are being hypocritical. If members opposite were in this position, I do not think they would wait until 22 May before debating this legislation, although they may swear that they would because of their strange concepts of constitutional law.

I have heard the wonderful statement that for the first time in a hundred or so years this will become a House of Review. Do members opposite not recognise that for many of those years during which a bicameral system has been in place, this has been an opposition controlled Legislative Council? It functioned very well as a House of Review during that time, when there were two parties in the House. It was used from time to time by the Labor Government.

The PRESIDENT: Order!

Hon PETER FOSS: It would come along -

The PRESIDENT: Order! Order! The Minister will come to order when I call for order. I have asked previous speakers to speak to the motion on the Notice Paper, and not to give us a history lesson or a lesson on the Constitution. If one member deviates, every other member wants to deviate. By the time members vote on this, no-one will know what they are voting on because no-one will have talked about it. The motion is that the second reading of the Labour Relations Legislation Amendment Bill be adjourned and made an order of the day for Tuesday, 27 May 1997. Very few members have referred to that and it is not a bad idea to reflect on it. I do not know whether the motion is a good idea and I do not have a vote. However, those who have a vote on the motion should talk about it.

Hon PETER FOSS: I am speaking on this because I understand it was suggested that from 22 May a new, totally different constitutional arrangement will apply in this House. It is not new, it has been the case for half the time this House has been in operation. Nothing new will happen on 22 May; it will be business as usual. I hope that members opposite in future will show the same responsibility that members on this side of the House have. When in opposition, we always made sure that the Government was able to carry through its mandate. We improved legislation but we very seldom stopped it.

It has been said that the Government has no mandate for this legislation. The majority of this legislation is not a third wave, but is the old second wave. It has all been before the House previously. It was stated in the Liberal Party's policy document in 1996 that the overwhelming majority of the policies had been introduced and they were working very successfully. That referred to the 1992 legislation. The Liberal Party said it would conclude the outstanding reforms from the 1992 labour relations policy on jobs and choices. I seek leave to table various extracts from that document which demonstrate that the Government has a mandate from the people of Western Australia.

Leave granted. [See paper No 410.]

Hon PETER FOSS: The Government intends to carry out its mandate, and it will not be thwarted by delay and filibustering. It has been suggested that the Government does not have a mandate. In 1989 the Liberal-National Party achieved 54 per cent of the two party preferred vote in Western Australia. Because of the proportional voting in this upper House, it had a majority of members. For some strange reason, the Australian Labor Party had the majority in the lower House, but nobody suggested it did not have a mandate. We accepted the situation, when in opposition, that we could amend and review legislation but we did not prevent the ALP from carrying out the policies it had put before the people of Western Australia for which it had a mandate.

That is the current situation. The thirty-fifth Parliament is sitting here and now, and it is a constitutional situation. Nothing will change on 22 May in terms of the constitutional arrangements, the Government's mandate, or anything of that nature. The Government will lose the numbers and, because it will do so, it seems moderately sensible from a political and pragmatic point of view to put through this House some of the more controversial legislation. How can members opposite possibly suggest that the Government is not legitimately entitled to do that, that members should in any way be prevented from voting or that this is not a proper constitutional process of this House? I urge members to vote against the motion and defeat it.

HON P. SULC (East Metropolitan) [12.55 pm]: I support the motion to delay the second reading of the Labour Relations Legislation Amendment Bill until 27 May 1997. I think that would be too soon and it should be left at least until 2005 to allow adequate community debate, but I am willing to accept my leader's motion that it be left at least until 27 May. I support this motion for many reasons, not least of which is that the Minister in another place expects members to consider this unmitigated rubbish. He has the gall to expect members to seriously consider it in such a short period -

Hon Derrick Tomlinson: When was it first introduced?

Hon P. SULC: A couple of weeks ago.

Hon Derrick Tomlinson: You do not know. You are wrong.

Hon P. SULC: According to the title -

Hon Derrick Tomlinson: You had better find out before you make statements in debate.

The PRESIDENT: Order! Order! I will repeat that members do not have to like or agree with what other members say, but they must listen to them.

Hon P. SULC: This Bill was introduced this year. Other Bills were introduced in the past and then withdrawn. According to the title of the Bill, it was introduced this year. Another reason that I support this motion is -

Hon P.R. Lightfoot: You were told to.

Hon P. SULC: I was told many things, but that is not one of them.

The PRESIDENT: Order! Just ignore them.

Hon P. SULC: I support this motion because it is a means by which the Opposition can try to make members on the government benches honour the commitments made outside this place. It has been said many times previously, and will be repeated many times, that the Premier and, through him, the Government made a commitment to the Trades and Labor Council, and through it to the workers of Western Australia, not to introduce any industrial relations legislation to the Parliament without tripartite agreement; that is, the agreement of Government, business and unions. The Government made that commitment to the union movement and it should be honoured. Let us not forget the circumstances in which the commitment was made.

Hon Derrick Tomlinson interjected.

Hon P. SULC: I am talking about prior to the Fielding report.

Hon Derrick Tomlinson: I am talking about the Government's policy.

Hon P. SULC: That is my interpretation and the reason I support this motion. Western Australia has been, and still is relatively, a place of industrial harmony. The number of strikes and industrial disputes has decreased considerably over the past 20 years as a result of better negotiations between unions and employer bodies. Also, the accord set between the Federal Government and the peak union body, the Australian Council of Trade Unions, has set aside many areas previously the subject of industrial dispute and reduced the number of industrial disputes overall.

Sitting suspended from 1.01 to 2.30 pm

[Questions without notice taken.]

Hon P. SULC: Another reason that this State and this country had relative industrial harmony was the greater understanding between peak union and employer bodies and the Government that was most notable during the Federal Labor years, when we had things such as the Accord, and also the institution of what is often called the social wage, with universal health care through Medicare, and other advanced social policies. For this and many other reasons, industrial dispute had decreased to a relatively low level over the past 20 to 25 years. However, a new conservative Government was elected in 1993, and with it came a new Minister for Labour Relations, Hon Graham Kierath, who introduced legislation which was not liked and which is now called, with the benefit of hindsight -

The PRESIDENT: Order! I have to say to the member what I have said to the previous speakers. The member is a long way off the mark. He is not even close to talking about this motion. My patience is being tested by people going on and on about something that has nothing to do with the motion. The history of the current Minister for Labour Relations has nothing to do with the motion. The member should be talking about why we should or should not support the motion.

Hon P. SULC: Thank you, Mr President.

Hon E.J. Charlton: Perhaps you could tell us how you want to deal with it or whether you do not want to deal with it.

The PRESIDENT: Order! I will do the directing.

Hon P. SULC: I will get to that point. I thank the President for his direction. I say in mitigation that I am trying to present my argument, which does require some expansion.

Prior to the luncheon suspension I was speaking about the reasons that we should put off the debate on this Bill until 27 May. I believe the debate should be put off until at least 2005, but I will stand behind this motion. One of the reasons that I support this motion is that part of the role of the Opposition is to aid the Government in honouring commitments that it has made outside this place. I had referred to commitments made during a time of some industrial unrest that was due to the introduction of what is now called the second wave industrial relations legislation. During that industrial unrest, and some civil unrest, I can imagine the then Leader of the Federal Opposition, who is now the Prime Minister of Australia, calling the Premier of this State and saying that he did not like the amount of industrial dispute in this State because a federal election was on the horizon and his federal colleagues did not want to be tarred with the same brush in an industrial sense. We have since heard from the Minister that part of the reason that the second wave legislation was amended at that time was that it could have harmed the federal Liberal Party's chances at that election.

We have had both state and federal elections, and the conservative Government in this State now has four years to face the acrimony and distress that will be caused by this legislation. On Tuesday we saw a demonstration of that acrimony and distress. While I was in the crowd I heard many comments. One repeated a few times was that this is the last chance that a conservative Government will have to destroy its class enemies in the trade union movement. People were also talking about the political expenditure amendments in the Labour Relations Legislation Amendment Bill, and said that this was a chance to destroy the Australian Labor Party by cutting off its funding.

The PRESIDENT: Order! The member does not seem to be able to comprehend what I have been saying. They are not arguments about why the Bill should or should not be dealt with before 27 May. The member's arguments may be put whenever the Bill is dealt with. If the member believes that is what the Bill will do, it will still be what the Bill will do if it is introduced next Pancake Tuesday! I am required by this House to ensure that members confine their remarks to the matter before the Chair. The member cannot talk about the merits of the Bill. If he did so, he would have nothing to talk about when the Bill is debated.

Hon P. SULC: Thank you for your direction, Mr President. I am trying to highlight some of the disquiet - which is a nice way to put it - in the community, and to explain why we should adjourn debate on the Bill, while discussions and further negotiations proceed -

Hon Peter Foss: We are not negotiating because you refused to.

Hon P. SULC: I did not refuse. I have not been asked to negotiate -

Hon Peter Foss: Your side and the TLC have been asked.

Hon P. SULC: The Attorney General said that I had refused to negotiate -

Hon Peter Foss: I meant your side.

Hon P. SULC: There is considerable unrest about this Bill -

Hon P.R. Lightfoot: Not on our side.

Hon P. SULC: There has always been disquiet on that side, Hon Ross Lightfoot.

Hon P.R. Lightfoot: We are as solid as a rock.

Hon E.R.J. Dermer: You will remain discreet for only a short while.

Hon P.R. Lightfoot: We want to get it over with.

Hon P. SULC: Reference has been made to a letter addressed to the Trades and Labor Council, signed "With kind regards, yours sincerely, Richard Court, Premier" and dated 7 November in which it is stated that there will be no further legislation unless agreement is reached by all sides.

Hon Peter Foss: Have you been told to filibuster?

Hon P. SULC: No. I have been told to wind up. The commitments in that letter suggest that we as a Parliament would not be considering any industrial relations legislation unless there was true tripartite support for it.

Hon Derrick Tomlinson interjected.

Hon P. SULC: This does fall under the heading of the Fielding report.

Hon Peter Foss: Don't you know that this is the same legislation as was brought here before?

Hon Kim Chance: There are broad similarities, and that is as far as one could go.

Hon P. SULC: I support that comment by Hon Kim Chance. It is not exactly the same legislation.

The letter says that there will be no further legislation of this type unless agreement is reached by all sides. Where does it say "in this Parliament"? It makes no mention of that. If it is implied it was an implication so subtle -

Hon Kim Chance: That it must have been missed!

Hon P. SULC: Yes. The majority of Western Australians missed that extremely subtle implication.

Hon George Cash: Do you know that we cannot bind a future Parliament?

Hon P. SULC: It was bound as far as the member's party was concerned.

Hon George Cash: You cannot bind a future Parliament.

Hon Peter Foss: It is the same legislation. Let us discuss it!

Hon Kim Chance: It is not the same.

Hon P. SULC: There are many differences.

Hon E.J. Charlton: Let Mr Sulc wind up!

Hon Peter Foss: He is filibustering.

Hon P. SULC: The commitment in the letter was not made on behalf of a Parliament; it was made on behalf of the Liberal-National Party coalition.

Hon Peter Foss: He has been told to fill in time; it is obvious.

The PRESIDENT: Order, Minister!

Hon P. SULC: The commitment was then revised after the legislation was brought to the House. A newspaper article on 7 April stated that the day before, Mr Court denied that the Government had reneged on its promise. That promise was not to introduce any legislation without tripartite agreement. The Premier was reported as saying that the

commitment regarding no new legislation was for the four year term, and he also said that the commitment was honoured. This motion is an attempt to ensure certain things.

Although there is some dissension on this point, I argue that the House as it is presently constituted gains its legitimacy from the 1993 election; and that while we are still a legitimate House of Parliament and able to review legislation in our own right, regardless of the legislation, the Premier made a commitment not to introduce this type of legislation. He revised that commitment to say "within this four year term", and I contend that this House is still serving the four year term about which the Premier spoke. One need only consider the membership of this place to understand that point. The members who were elected in 1996 have not taken up their seats in this House. Eight current members will not serve this House after 21 May.

Hon Peter Foss: They are Labor members!

Hon P. SULC: And quite a few Liberals, Attorney General.

Hon Peter Foss: You are the ones who were decimated by the election.

Hon P. SULC: I could mention some names, and I shall. In the East Metropolitan Region Hon Val Ferguson and I will be replaced. I am not sure whether the new members have the right to be called honourable at the moment. The members-elect for the East Metropolitan Region are Norm Kelly of the Australian Democrats and Ljiljana Ravlich of the ALP.

Hon Peter Foss: You gave an undertaking to finish this by Monday night.

Hon P. SULC: I did not think we were sitting on Monday. Three members representing the North Metropolitan Region will not be in this place after 22 May; I refer to Hon Graham Edwards, Hon Reg Davies and Hon Alan Carstairs. One of those members represents the Australian Labor Party, another the Liberal Party, and the third is an Independent Liberal. They will be replaced by members-elect Ken Travers from the ALP, Giz Watson from Greens (WA) and Helen Hodgson from the Australian Democrats. This House will lose one Liberal Party member and one Independent Liberal member in that region.

In the South Metropolitan Region, the House will lose you, Mr President, and you will be replaced by Simon O'Brien, who is also a Liberal. In the South West Region the House will lose Hon Doug Wenn, and gain the services of Christine Sharp from Greens (WA). From the Mining and Pastoral Region this House will lose the services of Hon Phil Lockyer who will be replaced by another member of the Liberal Party, Greg Smith. I have left Hon Ross Lightfoot off this list because that matter has been dealt with at length by other speakers.

The eight members to whom I have referred will be replaced by the new members-elect on 22 May. I could argue that I shall be replaced in this House by Norm Kelly of the Australian Democrats. I have spoken with Norm who is presently sitting in the President's Gallery. I understand he has some concern about this Bill but, as I am from a different party and have a totally different perspective from that of the Australian Democrats, there is no way I can articulate his concerns or his thoughts on this Bill. As a man of conscience, and on the understanding that I have been legitimately elected to this place, I will do my best to argue and fight against this undemocratic and unjust Bill with all the vigour available to me.

The Premier made a commitment that this Bill would not be debated by this Parliament within the present four year term of the Government. However, that is exactly what is happening. We have seen the concern in the community and that concern was expressed by the community on Tuesday 29 May in the rally in front of Parliament House. That concern can be truly allayed only by further negotiation between the Government and all interested parties and stakeholders, so that a Bill can be introduced which has the consent of all parties.

I conclude my remarks because I have been accused of filibustering, and I will allow other members to take up the argument.

HON CHERYL DAVENPORT (South Metropolitan) [2.56 pm]: I support the motion that the second reading of the Labour Relations Legislation Amendment Bill should not be debated before 27 May. I do so because I think it is very important that at least one woman who is a member of this current Parliament has an opportunity to voice her concern and to state why this House should not debate the Bill before 22 May. I also do so for three other reasons: Firstly, the morality of Governments within a democracy; secondly, the cooperation and review process that can exist in this place; and thirdly, a fair go for the women of Western Australia.

I begin my comments by relating to you, Mr President, concern expressed to me last night when I was away from the Chamber on parliamentary business at a citizenship ceremony within our electorate at the Town of Victoria Park. At the conclusion of my remarks some of the people who had become citizens asked me about the sticker I was wearing on my lapel which read "Kill the Bill". They asked what stage the Bill had reached, and I told them this

House was debating a contingency motion which, if it were passed, would allow this Bill to lay on the Table of the House until at least 27 May. Those new citizens have lived in this country for a number of years, and the countries they come from in South East Asia are not necessarily democracies. They told me to stick to my guns. I told them that the membership of this House does not change until 22 May, and they felt it was most inappropriate to debate legislation of this nature with the House in its current state. It flies in the face of democracy. It is totally inappropriate to debate legislation of this type that will affect the lives of men and women in this State.

I refer to the immorality of other legislation introduced by this Government, in particular the Land (Titles and Traditional Usage) Act, which was struck out in the High Court. Members of the Opposition argued in 1994 that it was undemocratic and unconstitutional.

Hon P.R. Lightfoot: Now it will be significantly adopted by the Prime Minister.

Hon CHERYL DAVENPORT: We shall see. The problem is that the makeup of the Federal Government has changed. The legislation originally adopted in the Federal Parliament is the right sort of legislation for Australia. It is about time people on Hon Ross Lightfoot's side of the House realised that the indigenous people of this country have a right to land rights legislation. It has already been mentioned that this Parliament will deny itself the contribution of six new members on the opposition benches who were elected on 14 December 1996 and who will not take their seats in this place until 22 May. I will not name them all. However, having met at least half of them, I know they are enthusiastic and that they would want to participate in the debate on this legislation.

Hon P.R. Lightfoot: What are we going to do - play snakes and ladders until then?

Hon Bob Thomas: Why don't you go to the Senate?

Hon CHERYL DAVENPORT: I remind members that today is May Day. That signifies not only spring in the northern hemisphere, where you are off to very soon, Mr President, but also the celebration of solidarity for the introduction of an eight hour working day for workers across the world. It is important that we as workers - I class myself as a worker - stand to support the rights of working people in this State.

The second reason I believe this legislation should not be debated before 27 May is that this Bill should not be rammed through this Parliament. I have no doubt that is what will happen. Members may debate this Bill for a long time; however, general logistics will mean that we probably will not be able to slow it down until 22 May. I like to think an ability exists in this place to be cooperative. We saw that ability when earlier in this session members debated the restraining orders legislation. Although this Bill may be contentious, I have no doubt that if the right people put their minds to it, we could reach reasonable outcomes. We have seen on other occasions, particularly in the Standing Committee on Legislation, on which a number of members, including I, have served, that we can come to agreement on contentious legislation.

Hon W.N. Stretch: I thought you walked out of that committee.

Hon CHERYL DAVENPORT: Yes, I resigned from that committee on principle because a Minister in the other place would not allow the due process of that committee to operate. The Minister's action was disgusting and I was disappointed that someone like Hon Bill Stretch would allow himself to be hijacked in that manner. It was not appropriate. It meant that there was no ability to look at the issues involved in the introduction of the young offenders legislation. The member knows I have a long held belief that we could have had much better legislation than we got. I was one of the people who participated in the committee process to consider the Crime (Serious and Repeat Offenders) Sentencing Act. As Hon Derrick Tomlinson will know, the committee decided that that legislation should be repealed. I did not resile from that - and my own party was in government then. The committee did not take the opportunity to do a better job on the young offenders legislation. I am disappointed at that. That was why I chose not to continue as a participant in that committee. An opportunity now exists to produce good legislation. This place should not ram through legislation, as it will do with this Bill.

The final reason I disagree with this legislation being debated before 27 May is this: On 22 May this place will make history. On that day seven women will be serving members of this House. That will be the largest number of female members this House has had in its 106 year history.

Hon P.R. Lightfoot: Out of the seven, how many will be on your side?

Hon CHERYL DAVENPORT: There will be two new Labor Party women and three on the cross benches: Two from the Greens (WA) and one from the Australian Democrats.

Hon Tom Helm: But in their hearts they will all be ours.

Hon CHERYL DAVENPORT: I do not deny that I wish there were more Labor women in this place: It is not for the want of trying on my part. However, there will still be seven women in this House - and that will be history. It is nearly a third of the total number of members elected to this place.

Legislation like this denies the input of 52 per cent of the Western Australian population. I suspect - I will be pleased to be proved wrong - that when we debate this legislation, I will be the only woman in this House who contributes to the debate. That is sad because in the past, legislation - including legislation enacted by my own Government on enterprise bargaining and conservative legislation on individual workplace agreements - has resulted in a reduction in the wages and conditions of women workers in this country. I am concerned about that. I am concerned because it is important that 52 per cent of this State's population be recognised and able to put forward arguments. I do not deny that a range of the male members in this place would probably also be able to put forward those arguments. Nevertheless, it is important that we allow ourselves access to the arguments that would be made by the two women present in the President's Gallery, members-elect Ravlich and Hodgson, who will be members in this Parliament on 22 May. It is important we do not deny ourselves their expertise on this legislation.

I conclude with an important quote from the January edition of "The Parliamentarian". Janet Anderson, a Labour Party shadow Minister in Britain - I hope after today she will be the Minister for women's interest - states -

For too long, women's concerns have been pigeonholed by politicians into "women's issues". The truth is that women care about the same issues as men: jobs and family insecurity, crime and safety, health care, education; they want a better standard of living for themselves and their families, and they feel let down by politicians. They have yet to be convinced that politicians really care about them.

We are letting down the women of Western Australia by debating this legislation before 27 May.

HON TOM HELM (Mining and Pastoral) [3.08 pm]: I support the motion of Hon Tom Stephens. It is a sensible motion for members to debate at this time. The motion states the obvious. I hope I can avoid stating the obvious during my contribution and give reasons the Minister for Labour Relations does not choose to take the Opposition's advice and wait until we get a proper representative group of people in this Chamber to debate the matter. He will not wait until those amendments that we have heard so much about are before us so we can see where this Government is going with this industrial relations Bill and how much the trade unionists of this State have affected the thinking of the Minister and his colleagues in Cabinet. The Opposition does not know what changes to the Bill are proposed by the Government. Hon Tom Stephens has been sensible by asking, by way of this motion, that the debate on the Bill be delayed until 27 May for those two reasons.

I suggest another reason. It has become apparent to me and my brothers and sisters in the trade union movement that there is a certain vindictiveness about this whole issue. I suggest that members opposite should listen to the people in this State. If they do they will find that, like me, they are quite proud of the actions by the Trades and Labor Council, my brothers and sisters in the trade union movement and the non-trade unionists because of their feelings towards this industrial relations Bill.

I am concerned that some people in the community are attracted to a form of anarchy and to taking on the Police Force, which this Government is using as its first arm in its anti-union activities. That worries me.

Hon N.F. Moore: That is absolute rubbish.

Hon TOM HELM: Is that right? If members opposite do not keep their mouths shut for a while and open their eyes and ears they will never learn.

Hon P.H. Lockyer: Don't knock the coppers.

Hon N.F. Moore: They make their own decisions.

The PRESIDENT: Order!

Hon TOM HELM: I am not knocking them and I suggest the member opposite listen to what I have to say. I have the greatest respect for the Police Force and it is a shame this Government is using it as its first arm. I am not using or abusing the police. I respect them. They are worth more than what they are being used for; that is, removing the tent embassy that was in the grounds of Parliament House. The situation could have been handled differently. Members opposite do themselves a disservice by using the Police Force in this way.

In 1995 when a similar campaign took place some members of the Labor Party - its leader was not involved - worked hard to build up support against the IR Bill. We had to work hard with the trade unionists and the Labor Party to create enthusiasm in the community. I thought we would be confronted with the same problem this time. The way Tuesday's demonstration was handled and the number of people who attended demonstrated to me that the opposition

to this Bill is being lead by the rank and file. When I was in Port Hedland and Newman attending the mass meetings the only dissentient voice to the otherwise unanimously passed resolutions was a man asking his comrades on the site to go on strike indefinitely until the Bill was put where it should be. I am talking about people who bring home \$1 000 a week in wages. They are away from home and are employed on a fly in, fly out, casual basis, but they are prepared to throw that away to make sure this Bill does not get into the Statute books.

If anyone can demonstrate I am wrong, I am prepared to listen. I started out with a different view. The situation now is that the rank and file have got hold of this issue and there are some people in the community who will have pleasure in bringing about anarchy. They look forward to the opportunity to bash a policeman and to take down part of the State. That is not for me, my political comrades and most of my trade union comrades.

If the debate on this Bill is delayed until 27 May, as the motion suggests should happen, those sorts of things will be put to rest. The people affected by the legislation will have the opportunity to sit down in the proper environment and talk through the issues. The Government's proposed amendments could be discussed to determine whether they have merit.

Members may recall Hon Ed Dermer asking the Minister for Finance, who represents the Minister for Health in this House, about exposure to electronic radiation from telecommunications towers. Members may think these two issues are unrelated. I will relate them in this way: There appears to be a dire need to debate this industrial relations Bill. It appears there are so many strikes in this State that there is a need to bring in legislation that is supposed to prevent them. It also appears there is a dire need in the State to enact legislation which effectively will destroy or undermine the strength of the union movement. It will do all those things. Hon Ed Dermer asked the Minister and members to look at the incidence of people who live near radio towers suffering from cancer. The basic thrust of the Minister's answer was that he had not studied the reports on this matter and had not had a close look at the effect or otherwise of mobile telephone towers on people. He does not know how many children who live near those towers are affected by cancer and whether the incidence of cancer in those areas is greater than in other areas. This Chamber should be considering the health of our children. Instead of that the Opposition is occupying the time of this House to try to explain to members opposite that they must look at this Bill sensibly.

It is obvious that what the Government wants has a lot to do with the imminent change to the structure of this Chamber. I acknowledge that members of Parliament are probably the least affected by the changes proposed in this Bill. However, consideration must be given to handling the debate on this Bill in a better way.

Hon W.N. Stretch: Who is standing up for people who wanted to work and not strike?

Hon TOM HELM: Did the member find one? The people I found are donating a day's pay, particularly the employees in Parliament House. Did the member know that? Does he know how many people are frightened to go on strike, such as those on individual contracts.

The PRESIDENT: Order! The member should not be diverted by interjections. They are taking him away from speaking to this motion. The member was getting away from it, but the interjection has taken him right away from it.

Hon TOM HELM: I should not have been diverted, but the interjection reminded me of the fear people have of this legislation. We have people without the protection of a union and who were encouraged by members on this side to go to enterprise bargaining. I am as guilty as anyone in this Chamber of saying there was merit in enterprise bargaining and individual contracts. We know from what is happening now that it takes very courageous people who have a workplace agreement to go on strike. This has been described as a political strike. We are debating a Bill that will assist in destroying the union movement; therefore, it must be a political strike. I will not be lead down the path of debating the merits of the Bill but there is merit in delaying the opposition debate until 27 May so it can get the information it needs. The Cabinet can then be effective and look at the things it must do to make this State better. The comments by Hon Ed Dermer brought home to me the point about people, particularly children, who may be susceptible to contracting cancer as a result of living close to telephone microwave towers. I will not take up too much of the time of the Chamber in going over ground that has already been covered. This issue flows on from the debate we had yesterday about how the time in this place is managed.

Those opposite will have the devil's own job in convincing me there is some merit in this industrial relations legislation. They cannot say that I am merely whingeing all the time, because in the past I have supported many pieces of legislation, and I will continue to do so. However, this legislation needs the longest possible gestation period. We must understand the effects it will have, including whether it breaks the International Labour Organisation conventions. We must also look at the impact on our overseas trade if the Bill goes onto the Statute books. We must ascertain what the Australian Council of Trade Unions will do if this legislation is passed. We need the longest possible time to allow those with control in areas which are covered by the legislation to discuss the issues

that will affect them, and we must allow a reasonable time within which that can happen. With those few words, I support the motion.

HON BOB THOMAS (South West) [3.21 pm]: My remarks on this motion will be brief. They will be followed by the reply of the Leader of the Opposition in about 10 minutes. I will make two points on this motion which calls for this legislation to be deferred and debated after 27 May. First, there is enormous community expectation that this legislation not be dealt with until the composition of this House changes on 22 May. Secondly, the new candidates who will take up their seats in this House after 22 May participated in the election campaign in November-December 1996, engaged in the debates about the various policies, including those relating to industrial relations, and now want to be involved in the debate in the Parliament about the legislation which flows from the policies during the campaign.

The House must understand that on 14 December 1996 the electorate made a deliberate decision to change the composition of this House. The electorate made a decision to give the Liberal-National Party coalition a mandate in the lower House. It resulted in the Labor Party losing a couple of seats which were picked up by the coalition. When it voted for representatives in the Legislative Council the electorate made another deliberate decision - to take the balance of power from the coalition and to give it to members of the minor parties who will sit on the crossbenches. That was a deliberate decision.

Most people to whom I speak do not understand the Constitution or how this House is constituted and do not realise Legislative Councillors are elected for a fixed four-year term. Those people think this Legislative Council was reconstituted when the House first sat with the opening of Parliament. When members of the electorate made their decision on 14 December 1996, they thought, in good faith, the composition of this House would be changed, giving the balance of power to those on the crossbenches from the day on which the House first sat. Therefore, there is an expectation in the community that this House should be composed of people who were elected in 1996. Whether that is constitutionally correct is irrelevant to those people. They think this legislation should be dealt with by those who were elected at the last election.

I can give another couple of examples of how the general public feels about this issue. I do not know whether members were present at the rally on Tuesday. One of the speakers was Reverend John Dunn, the moderator of the Uniting Church. I refer to a few of lines from his speech. Under the third point he said -

The Government claims a 'mandate' for change given it by the electorate. If this is a truly held belief I call upon the Government to delay the introduction of the Amendments until the Parliament elected by the people finally takes its place on 22nd May. The *West Australian* editorial of 24 March stated it well - I quote:

By exploiting a constitutional technicality - by preventing the new Council from sitting before 22 May - Mr Kierath is deliberately and cynically thwarting the will of the people. He is trying to avoid a review of the Bill by an Upper House elected to be free from domination by the executive and to provide proper scrutiny of the legislation.

To force these current amendments through the Parliament before 22 May shows a disturbing disregard for the just, moral and ethical concerns voiced by the people of Western Australia.

Mr Dunn continues -

With many in our community the Uniting Church is deeply concerned that this proposed legislation has caused such 'social discordance' and attacks the fundamental rights of one sector in our community without addressing the excesses and controls held by another small and influential sector. The church seeks the correction of injustices wherever they occur.

At this late stage Mr Kierath and Mr Court have sought to appease the enormous ground swell of opposition to the Third Wave by offering some minor amendments without addressing the fundamental injustices implicit in the legislation. If their concern is genuine I call on them, to delay the legislation until after 22 May and to allow their legislation to be tested in the Parliament elected by the people.

Reverend Dunn is expressing the views I articulated a couple of moments ago. I suggest he is a very intelligent, articulate person. We have only to listen to talk back radio programs and to read the letters to the editor in the newspapers to realise that the vast majority of the public holds a genuine belief that this legislation should not be dealt with until the composition of this House changes on 22 May. It is incumbent on the Government to take heed of that view and to delay consideration of this legislation until the time specified in the motion.

A number of candidates who contested the election in 1996 will come into this House on 22 May. I cannot remember all of their names, and I do not want to try because I have only a couple of minutes within which to make my points,

and also a number of other members have already spoken about the Bill. However, the Attorney General, the Minister who will have carriage of this legislation in this House, has told us his belief that the Government has a mandate to introduce this legislation because this policy was debated during the election campaign. I disagree with him, but I will not go into any detail now. The labour relations policy of the coalition released before the last election contained a number of matters that are in the second reading speech - we have yet to receive the Bill. However, a number of other issues are raised which were not debated during the last election campaign.

They were not part of the last policy document put out nor part of the policy document put out in 1992. A number of the candidates who were elected in the 1996 election participated in some of the debates. Industrial relations was not a particularly important issue at the last election given the amount of media attention it received. Industrial relations was not debated very much. However, a number of candidates who were elected also participated in the debates. They will take up their seats on 27 May. They believe that they should be able to participate in the debate on the legislation which flows from the policy that was debated at the last election. I can see two of the former candidates sitting in the House.

Hon B.K. Donaldson: I can see three.

Hon BOB THOMAS: Yes. I know that two would very much like to participate in this debate. Their views are not entirely in accord with those of the Labor Party, but they should have the opportunity to articulate their arguments. I commend the motion to the House.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [3.32]: I have been listening to all of the arguments put to the House by my colleagues. I had not realised that so much of the argument had been put so well.

Hon Peter Foss: And so often.

Hon TOM STEPHENS: Yes, and many members will now finally, hopefully have got the point.

Hon N.F. Moore: It is indelibly printed on my memory.

Hon Bob Thomas: Go over the arguments.

Hon TOM STEPHENS: For the sake of the House the argument is this: In about 10 minutes I will have concluded my comments on the motion. I intend to give the House an opportunity for a vote on the question before the House. Hopefully we all know by this time that we have before us a contingency motion, of which notice was given it seems a reasonably long time ago, that following the introduction of the Labour Relations Legislation Amendment Bill into this House the second reading would not take place until 27 May. That is the first scheduled sitting day after the arrival of the new members who will make up the Legislative Council for the next four year term. It would seem from the response that we have had to our comments from the Government in this House and outside by the Premier and the Minister for Labour Relations that our arguments have, at least at the level of leadership of this Government, fallen on deaf ears. Shortly after I spoke when I introduced the motion the Leader of the House analysed my arguments and unkindly dismissed too many of them; he did not take enough notice of their validity. I spoke to the House about the industrial crisis that is engulfing the State. I described to the House that the crisis was not only an industrial crisis but also a moral and political one. The moral and political question was about the right of the Government to require this House to consider legislation for which this House no longer has a mandate. My arguments and that of so many of my colleagues have gone through the proposition that in just 20 days nine members of this House will no longer be with us.

Hon Max Evans: Where do you get nine?

Hon TOM STEPHENS: I am not the Minister for Finance but by counting he will arrive at nine.

Hon Max Evans: I did not have to count heads to get my seat.

Hon TOM STEPHENS: In a short time we will find at least nine of our members going out past the Bar. Coming in past the Bar we will find nine new members who will change the political complexion of this place forever. I am delighted to see that the House has within its walls, if not on the floor of the House, two Democrats and two of my Labor colleagues who are unable to participate in the debate. I have discovered that one member of the coalition is also here on display during this debate. I look forward to meeting him. I wish that we could provide him with an opportunity to vote on this legislation. He would have that opportunity if his colleagues were to be so kind as to support my motion.

Hon Barry House: Do you want a bet on which way he would vote?

Hon TOM STEPHENS: I would not mind which way he voted. All I want is for him to be allowed to vote on the Labour Relations Legislation Amendment Bill because he at least has a mandate.

I understand that standing orders do not allow me to reflect on current members who vote in these proceedings. It would appear that I have adequately avoided that, because the President did not make me shut down absolutely at any given moment. He guided me in and headed me off at the pass to ensure I did not incur his ire. I hope that by and large I have managed to ensure that the rules of debate have been observed, at least with my contribution, and that I have not reflected on whether individuals are in this House with a legitimate role to vote. However, we know that almost the entire community of Western Australia is of that view. We know that increasingly within the Western Australian community and in the media the view is that this House should not be voting upon the labour relations Bill before 27 May.

Hon W.N. Stretch: We have listened to different people who have told us to get on with it.

Hon TOM STEPHENS: Hon Bill Stretch must know that tonight the State is going further into crisis. The Chamber of Commerce and Industry is faced with this crisis. Right now the Government is in increasing crisis. The Government will have the opportunity in about two minutes to avert that crisis.

Hon George Cash: Do you know that the TLC acknowledges it has lost control?

Hon TOM STEPHENS: Members opposite had so many opportunities to speak on this motion and they did not take the opportunity. I will take only two minutes, so they should let me finish my speech without interruption. Members opposite have the opportunity to vote with this motion, so that in just a few days the State can be back in order and the legislation can be reviewed through the normal processes.

Hon N.F. Moore: It is being reviewed through the normal process.

Hon TOM STEPHENS: Shush, Minister. The Minister has had his say. He has insisted that I finish my comments.

Hon N.F. Moore: I have not insisted on anything.

The PRESIDENT: Order! Members should not interject or we will never get this thing finished.

Hon TOM STEPHENS: The right of senator-elect Hon Ross Lightfoot to be in this place has been challenged by just about everyone in the Western Australian community.

Hon N.D. Griffiths: I think you have convinced him; he is not here.

Hon TOM STEPHENS: I am pleased he is not here.

Hon N.F. Moore: He is outside on parliamentary business.

Hon Kim Chance: Which Parliament?

Hon TOM STEPHENS: I presume when the bells ring he will either come into the Chamber or he will be paired. It is a pity his vote is available to the Government at this time. It is a pity he has not resigned and gone off to the Senate. It will be a pity if Mr Carstairs exercises a vote, because that is the view of the Western Australian community and the media.

Hon B.K. Donaldson: What about Hon Paul Sulc?

Hon Tom Stephens: Mr Sulc does not want to exercise his vote on the labour relations issue.

Hon Muriel Patterson: Will they?

Hon TOM STEPHENS: Mr Dermer will, but Mr Sulc would prefer not to. However, as it appears the Government will insist that this motion be put before 22 May we must deal with the situation as it is.

I have asked the Government to extend a vote of confidence in the new House. Even at this last moment I hope that members opposite might be persuaded by that argument, that they might cast a vote of confidence in the new House to handle even controversial legislation such as the Labour Relations Legislation Amendment Bill. A refusal to do so does not augur well for this House. However, as in so many ways, if that is the situation, the die is cast and we will go into a range of ongoing crises not only in this Chamber, but more widely in the State. I hope that members opposite will support this motion and give to the Legislative Council, after 21 May, a chance to review the labour relations legislation.

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon E.R.J. Dermer
Hon Graham Edwards

Hon N.D. Griffiths
Hon John Halden
Hon Tom Helm
Hon Mark Nevill

Hon J.A. Scott
Hon Tom Stephens
Hon P. Sulc
Hon Bob Thomas(*Teller*)

Noes (15)

Hon A.M. Carstairs
Hon George Cash
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans

Hon Peter Foss
Hon Barry House
Hon P.H. Lockyer
Hon Murray Montgomery
Hon N.F. Moore

Hon M.D. Nixon
Hon B.M. Scott
Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pairs

Hon Val Ferguson
Hon Doug Wenn

Hon P.R. Lightfoot
Hon E.J. Charlton

Question thus negatived.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

LABOUR RELATIONS LEGISLATION AMENDMENT BILL

Second Reading

Resumed from 29 April.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.36 pm]: The Opposition opposes this Bill in principle and in detail.

Hon N.F. Moore interjected.

Hon TOM STEPHENS: The Leader is familiar with the speech. It is the reversal of a speech that was given from time to time -

Hon E.J. Charlton: What about the amendments?

Hon TOM STEPHENS: The Opposition is opposed to the Bill in principle and in detail and believes it should be withdrawn.

Hon Peter Foss: You don't support it with reservations?

Hon TOM STEPHENS: We do not support it with any reservations; we oppose and reject it; we would like it withdrawn; we wish it were not being debated. We have moved motions aimed at achieving that result, but regrettably they have been unsuccessful. We must now press on with the debate despite our best intentions.

You, Mr President, Hon Norman Moore and I know that my opening remarks are the reverse of those spoken by a predecessor in this chair, the Leader of the Opposition when I arrived here 15 years ago, but he never used them in relation to coalition labour relations legislation. From time to time that member would commence and finish his contribution by stating that the Opposition supported a Bill in principle and in detail. One of the reasons I am reminded of that speech today is that I noticed in the gallery Hon Gordon Masters, a former Minister for Labour Relations. He often introduced industrial relations legislation of a less hideous sort than that before us. In the brief period I was in the House prior to the change of Government in 1983, we debated labour relations legislation on various occasions.

This is an extraordinary day upon which to commence this debate. Of course, as we all know, it is May Day - a sacred day -

Hon B.M. Scott: It is Mother's Day in England.

Hon TOM STEPHENS: That is another reason for not persevering with this Bill. I intended to provide a few more -

Hon George Cash: It is election day in Britain.

Hon B.M. Scott: It is the first day of spring in Europe.

Hon TOM STEPHENS: Members opposite have many reasons -

The PRESIDENT: It is also Thursday and I want the member to get on with the debate.

Hon TOM STEPHENS: It is said that the justification for this Bill is found within the British context and Thatcher's England. It is an extraordinary irony that, on the day upon which the Western Australian Parliament chooses to introduce Thatcherite legislation, Thatcher's England will change forever with the election of a Labour Government.

Point of Order

Hon J.A. SCOTT: The new sessional order relating to classification of Bills states -

The Committee's determinations under this paragraph -

That is, the assignment of a classification to a Bill -

must be published in the Notice Paper before the second reading debate is resumed following the moving of the second reading by the minister or member in charge of the bill.

As yet I have not heard of any designation being assigned to this Bill.

Hon TOM STEPHENS: In my capacity as Leader of the Opposition, I am one of the members of the committee dealing with the classification of Bills. I have forgotten to tell Hon Jim Scott what happened, although I gave him an undertaking that I would relay the results of the meetings.

The PRESIDENT: What is your point of order?

Hon TOM STEPHENS: I agree with his point: The committee did not meet. I chose not to attend the meeting. I understand that a quorum is formed when three members are present. The Labor Party has decided that its members will not attend these meetings until the sessional orders are amended. Given that, the committee cannot meet, and the honourable member is correct: There is no classification and the Bill should not be debated.

The PRESIDENT: I do not know what point of order the member has raised; he has simply provided an explanation to Hon Jim Scott. In other words, the committee did meet but was unable to form a quorum and, therefore, the Bill was not given a classification. That is the way it is; there is no classification.

Hon TOM STEPHENS: I want us to get it right.

The PRESIDENT: The member should read subparagraph (4) of the new sessional order, which states -

If the Committee cannot agree on the classification to be given to a bill, the passage of that bill through its remaining stages is not subject to the provisions of this order.

That is my response.

Debate Resumed

Hon TOM STEPHENS: Mr President, it is an extraordinary irony that we are debating this legislation on 1 May. One of the reasons that it is an extraordinary irony is that May Day is a sacred day for workers who are involved in the union movement because it is on that day that people all over the world celebrate what it is to be a worker and part of the union movement. I am not a member of a union, but I intend to rectify that for a range of reasons, which I will outline later. When I was a young man, I sought confirmation, and I chose the name Joseph as my confirmation name. Some members in the House will know that May Day is the day we celebrate the feast of St Joseph. The reason we celebrate the feast of St Joseph on May Day is that St Joseph was designated by the church of which I am a member as the patron saint of workers. It is extraordinary that on this sacred day in the tradition from which I and union people come - this sacred celebration of the role of workers - this Chamber is debating legislation that is substantially an attack on workers and the union movement. As someone who is not from the union movement, as someone who is not from the working class, I know how important -

Hon E.J. Charlton: Do you think only workers belong to unions?

Hon TOM STEPHENS: Do not interrupt.

Hon E.J. Charlton: I do not think you have given St Joseph a fair deal.

Hon TOM STEPHENS: As someone who is not from a union background -

Hon E.J. Charlton: I belonged to the farmers union in my younger days, before they changed the name. It was a very strong union.

Hon TOM STEPHENS: The Minister has distracted me. I do not come from a family that has firm connections with the union movement, but during my childhood I developed an enormously deep respect for what unions have done for the workers of Australia, and also a respect for the fact that people who need the protection of the union movement have had that protection available to them up until this point.

I will outline the structure of my speech, because it is important that people understand what will be the start, the middle and the end of my speech and see that it will have a clear beginning, middle and conclusion. I will commence with the Attorney General's second reading speech to this Chamber. I will compare that second reading speech with the Bill that has come before the House by virtue of that speech. I will then talk about what is wrong with that Bill. In order to construct that case, I will outline the history of industrial legislation in Europe, in Australia and in Western Australia, the history of the Acts that this Bill will amend, and the history of the recent debate about these provisions. When I have analysed the history, I will analyse the arguments that were put in the second reading speech. I will then come to the only conclusion that can be reached. That is where I am heading, and members need to know where I am heading so that they will not take a point of order and say that structure is irrelevant and that is not the way I should go. If members did want to do that, it would not be a bad idea if they pulled me up now and got that settled.

I will start with the second reading speech of the Attorney General, which is a standard place to start in debates such as this. It states that this Bill is in response to the election mandate obtained by the Court-Cowan coalition Government at the most recent state election. It states also that two other pieces of legislation will follow shortly. We have asked a question in this House to try to find out what those two Bills will be. The answer given by the Minister representing the Minister for Labour Relations was that he could not give an answer to the question because it would take too long to find out the answer. I ask the Attorney to please find out the answer to that question.

Hon Peter Foss: You asked more than one question.

Hon TOM STEPHENS: I am asking the question now so that when the Attorney responds to this debate he can keep in mind that I want to know to what legislation he is referring.

Hon Peter Foss: The Fielding report.

Hon TOM STEPHENS: The Fielding report is not legislation. The Fielding report is a report. Legislation is legislation, and it becomes legislation by being introduced as a Bill.

Hon Peter Foss: It is the industrial relations amendment Bill. If you want to know what is in it, it is the Fielding report.

Hon TOM STEPHENS: Is it one Bill or two Bills?

Hon Peter Foss: Two Bills, and they enact the Fielding report.

Hon Bob Thomas: With what items will they deal?

The DEPUTY PRESIDENT (Hon Barry House): Order! Two things: Conduct the debate through the Chair, and let the Leader of the Opposition conduct his own debate.

Hon TOM STEPHENS: The Attorney has not adequately answered that question because -

Hon Peter Foss: I have.

The DEPUTY PRESIDENT: Order! Let us do this without the interjections. This is not a conversation. It is a debate, and it must be conducted through the Chair.

Hon TOM STEPHENS: We have now extracted by way of interjection an indication of what those two Bills will be. The Attorney has said they will enact the recommendations of the Fielding report. When the Attorney General responds, it will be helpful if he can provide to the House, to the Opposition and through it the community and the union movement - if there is anything left of it after the Government has finished with it - more detail of the legislation.

Hon Peter Foss: That is nonsense. If the Bill were ready we would bring it in.

The DEPUTY PRESIDENT: Order! The Attorney General will be handling the Bill. During Committee he will have ample opportunity to refute arguments as they arise. He should not do it now by way of interjection.

Hon TOM STEPHENS: The Attorney's second reading speech suggests that the principle of the Bill is to reintroduce those labour relations legislative reforms that were first tabled in September 1995 but were not passed during the previous term of the coalition Government. I will subject that claim to further scrutiny later. The second reading speech suggests that that is the purpose of the Bill. He also says that the Bill incorporates changes to the Western Australian industrial relations system to take account of changes under the federal Workplace Relations Act 1996. In a while I will take the opportunity of subjecting that claim to further scrutiny, because, regrettably, that claim does not hold up.

The Attorney General's second reading speech also states that at the 1996 state election, the coalition's policy on labour relations for the next term of government was stated in the platform document "More Jobs and More Choices". I will take the opportunity of subjecting that claim to more analysis by reference to that document. The Attorney went on to say that it was the Government's vision of creating more jobs and more choices for all Western Australians, and that was predicated on the creation of more productive, more competitive, and more rewarding, safer and fairer workplaces. That claim must be subjected to scrutiny, because when it is, the only conclusion will be that it does not appear to be a vision of the Government. This Government does not seem to be involving itself in the creation of jobs and more choices for all Western Australians - through legislative initiatives or any other initiatives.

The Attorney General said also that such workplaces will be achieved only when the Government has implemented the reform initiatives laid out in two election platform documents. He uses the words "emphatically mandated by the people of Western Australia, not only in February 1993 but also most recently in December 1996". That is an extraordinary claim, and I will take the opportunity of subjecting it to scrutiny.

The Attorney goes on to say that the past four years have demonstrated the Government's commitment to fundamental reform of labour relations. Again, this is a dodgy claim. It is not a reform process, and I will indicate why it is not. The Attorney claims that this reform has been undertaken as a means to an end, making the Western Australian economy more competitive and more efficient and industrial relations more harmonious and fairer.

Hon Tom Helm: Oink, oink!

The DEPUTY PRESIDENT: Order!

Hon TOM STEPHENS: Hon Tom Helm does not know that each night I go home to my daughter and read her a story entitled "Pigs Might Fly". It is a long story, and in it the author talks about the UEF, which is the unusual event factor.

Hon N.F. Moore: This is a better story than the one you were telling us before. Perhaps you could read it to us.

Hon TOM STEPHENS: I agree with the Minister, because the story I have been reading to the House has been the one presented to us by the Attorney General, who represents the Minister for Labour Relations. It was an extraordinary tale that he put before the House. That is as far as I have reached in my presentation in reply to some of the elements of the Attorney's second reading speech. It is by any standards an extraordinary story, just like "Pigs Might Fly".

Several members interjected.

Hon TOM STEPHENS: I am sure the Attorney was embarrassed by the statement that the legislation would be fairer.

Hon Peter Foss: No.

Hon Kim Chance: He should have been.

Hon TOM STEPHENS: He should have been embarrassed by the grammar, let alone anything else.

The Attorney's second reading speech states that principal in a raft of reforms has been the system of workplace agreements the Government introduced in 1993. He says that workplace agreements have unshackled the previously strait-jacketed employment system in this State, and provided a real freedom for employees and employers to determine employment conditions which best suit their individual needs. Such claims are provocative and extraordinary by anyone's standard.

The Attorney goes on to say that the Government's reform has been paid the quite remarkable compliment of being the model emulated by the Commonwealth Government for Australian workplace agreements in its recent Workplace Relations Act 1996. That is an extraordinary misrepresentation of the facts.

Hon Kim Chance: It is a lie.

Hon TOM STEPHENS: It falls within that genre. We know why it is an untruth, because we know what happened in the Federal Parliament which makes that claim an untruth. Regrettably, that claim was contained in the Attorney's

second reading speech to this House. We will indicate what is wrong with the claim. It will require some untangling to indicate why the claim is wrong, and we will do that in detail.

The Attorney described the Government's enthusiasm to continue the process of reform as "undiminished".

Hon Kim Chance: Is that another word for blind?

Hon TOM STEPHENS: One must analyse the speech, which was delivered at the beginning of the week. The Minister claimed that the "More Jobs and More Choices" pre-election document made quite specific and deliberate reference to some of the supposedly contentious matters contained in the Labour Relations Legislation Amendment and Repeal Bill of 1995. In a while I will bring out that document and its predecessor, and take the opportunity of comparing the Attorney's claim with those documents.

The Attorney General expressed the view that the Bill demonstrated the Government's commitment to including the reforms from the 1993 industrial relations policy. That was the predecessor of the 1996 document. He referred to the section under the heading "Compulsory pre-strike ballots" and suggested that when the Industrial Relations Legislation Amendment and Repeal Bill was introduced in 1995 -

[Debate adjourned, pursuant to Sessional Order No 1.]

LIMITATION AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [5.01 pm]: I move -

That the Bill be now read a second time.

Section 37A of the Limitation Act had always been thought to impose a 12 month limitation period upon the right to commence proceedings for the recovery of taxes and other imposts which had been paid pursuant to an Act which was subsequently held to be invalid. However, a decision of the High Court, in the case of Commissioner of State Revenue v Royal Insurance Australia Ltd (1994), in relation to a comparable provision in the Victorian Limitation of Actions Act 1958, has cast doubt on whether section 37A has that effect.

In that case the High Court held that money paid by way of tax under a mistake as to one's obligations under the law was not paid "under the authority or purported authority of any Act", which are the words currently used in section 37A. The decision highlighted a potential risk to the revenue where an action is commenced to recover payments of taxes made under an Act which is subsequently held to be invalid, as well as where payments of taxes are made pursuant to a mistake of fact or law.

In the Royal Insurance case, substantial payments of stamp duty - nearly \$2m - which had been made some five years earlier were sought to be recovered from the Victorian Commissioner of State Revenue. All other Australian jurisdictions have since amended their limitation legislation in response to the High Court's decision.

The purpose of the amendments to section 37A is therefore twofold. First, the Bill seeks to confirm what was always thought to be the effect of section 37A in relation to payments of taxes made pursuant to an Act which is subsequently held to be invalid. Second, the Bill seeks to apply the same 12 month limitation period to actions for the recovery of payments of taxes made pursuant to a mistake of fact or law.

The Bill is closely modelled upon the amendments introduced by the Victorian Legislature in response to the decision in the Royal Insurance case.

This Bill also proposes the inclusion of sections 37B and 37C in the Limitation Act. These sections will provide a "passing on" defence for the State against recoveries of taxes and other imposts even in the period not covered by the section 37A limitation. The passing on defence seeks to limit any refunds to imposts which the taxpayer can demonstrate have not been passed on, either directly or indirectly, to other persons. This will prevent the taxpayer from receiving a windfall gain from any refund. The passing on defence will apply only in court proceedings. Consequently it will not limit a refund from a government revenue authority under the relevant provisions of a revenue Statute, where the refund can be settled without resorting to the courts. Furthermore, where the taxpayer has charged an impost directly to other persons, the passing on defence will not limit a refund of the impost if the taxpayer reimburses the other persons.

The option for the taxpayer to reimburse the other persons and thereby claim a refund will not be available if the impost was charged indirectly to those persons, by incorporation in the price of or charge for any property or services. Nevertheless, even in these circumstances the passing on defence would not extinguish the taxpayer's right of recovery, but would limit it only to the amount of the impost which has actually been borne by the taxpayer. The proportion borne by the taxpayer could vary significantly from case to case. Most other States have already implemented a similar form of passing on defence.

The measures in this Bill will ensure greater certainty in state finances and thereby enable the Government to plan its delivery of public services with greater confidence. The need for such measures is highlighted by recent challenges in the High Court to state business franchise fees, including the Ha and Lim case in New South Wales in March this year. The litigants in that case argued that tobacco franchise fees are excises and therefore offend section 90 of the Constitution. If the litigants are successful in that case, and we will know whether that is the case by August this year, then Western Australia alone could be exposed to retrospective refunds of up to \$600m per annum. This is our current annual revenue from tobacco, fuel and liquor franchise fees. That there is even the potential for the States to be exposed to such enormous refunds of revenues on which they have relied for many years highlights not only the urgency of the measures in this Bill but also the need for fundamental reform of the national tax system. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

BILLS (2) - RETURNED

1. Trustees Amendment Bill
2. Metropolitan (Perth) Passenger Transport Trust Amendment Bill

Bills returned from the Assembly without amendment.

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL

Receipt and First Reading

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

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.06 pm]: I move -

That the Bill be now read a second time.

The Bill seeks to revise the statute law by repealing spent, unnecessary or superseded Acts, and by making miscellaneous minor amendments to various Acts. Its aim is to make Parliament more efficient by reducing the number of amendment Bills dealing with relatively minor legislative amendments and repeals. Amendments and repeals included in the Bill are required to be short and non-controversial. In addition, they must not impose or increase any obligations or adversely affect any existing rights.

The Bill contains amendments and repeals initiated by Ministers and also contains recommendations by parliamentary counsel's office for miscellaneous clerical corrections and amendments discovered when drafting other Bills or compiling reprints of Acts.

Although the Bill is introduced by me as Leader of the House, it covers much legislation which is the responsibility of other Ministers. Therefore, subject to the orders and practices of the House, it may be possible for different Ministers to have responsibility for the legislation at different times during the Committee stage of debate.

I will outline some of the specific provisions of the Bill. Clause 9 repeals the Iron Ore (Dampier Mining Company Limited) Agreement Act 1969, which is obsolete due to the agreement defined in section 1A of the Act being cancelled in 1988 under the terms of clause 4 of the sixth schedule to the Iron Ore (Robe River) Agreement Act.

Clause 11 repeals the State (Western Australian) Alunite Industry Act 1946. This spent Act is the vehicle under which the State of Western Australia continued an industry established under a repealed Act of 1942. What was regarded as a strategic industry during World War II has been defunct for many decades.

Clause 13 repeals the Wood Distillation and Charcoal Iron and Steel Industry Act 1943. The state run industry at Wundowie, which was the subject of this Act, was disposed of under the terms of the Wundowie Charcoal Iron Industry Sale Agreement Act 1974.

Clauses 40 and 41 deal with minor amendments to much more recent legislation; namely, the Consumer Credit (Western Australia) Act 1996 and the Consumer Credit (Western Australia) Code as set out in the appendix to that Act. When the legislation was passed, a section in each of the Act and the Code was amended in Committee. Later examination of the amendments revealed that they did not fully achieve the purposes intended at the time they were made, and that the terminology was not consistent with the rest of the Act. These amendments will rectify those inconsistencies and allow the affected sections to achieve their intended purposes.

Explanatory notes have been prepared to explain briefly what each minor amendment or repeal entails. Copies will be available to all members for their information. A further information package containing copies of relevant Acts or sections of Acts can also be made available as a reference tool. It is proposed full debate on this Bill will take place later in the Autumn sitting in order to allow members to research the Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

House adjourned at 5.09 pm

QUESTIONS ON NOTICE**FISHERIES - DEPARTMENT***Expenditure - Controls*

63. Hon JOHN HALDEN to the Minister for Transport representing the Minister for Fisheries:

- (1) Have the appropriate controls, as specified in section 53 of the Financial Administration and Audit Act 1985 and Treasurer's Instructions Nos 304 and 305, regarding expenditure, now been implemented in the Fisheries Department?
- (2) If not, why not?
- (3) Why were the Act and these instructions not complied with in 1995-96?
- (4) What action has been taken to ensure compliance with the Act and the instructions?

Hon E.J. CHARLTON replied:

The Minister for Fisheries has provided the following reply -

- (1) Yes.
- (2) Not applicable.
- (3) Appropriate controls were in place. The Auditor General expressed concern at the department not being able to provide evidence of the various appointments as required under the Financial Administration and Audit Act.
- (4) Appropriate appointments have now been documented and the register of incurring and certifying officers has been updated.

FISHERIES - DEPARTMENT*Treasurer's Instructions - Compliance*

64. Hon JOHN HALDEN to the Minister for Transport representing the Minister for Fisheries:

- (1) Has the Fisheries Department now complied with Treasurer's Instructions Nos 410 and 406?
- (2) If not, why not?
- (3) Why were these instructions not complied with in 1995-96?
- (4) What action has been taken to ensure compliance with these instructions?

Hon E.J. CHARLTON replied:

The Minister for Fisheries has provided the following reply -

- (1),(4) Compliance with Treasurer's Instructions 406 and 410 is being addressed through the implementation of the assets module in the department's new financial management information system. As part of the implementation of the asset module, appropriate stocktakes will be undertaken.
- (2) Not applicable.
- (3) The department maintained a register of public property as required by Treasurer's Instruction 410. Whilst the department conducted stocktakes during the year, the department's internal auditor and the Auditor General have expressed concerns as to the completeness and accuracy of the information on the register.

WOMEN'S INTERESTS - SAFETY*Local Government Audits*

344. Hon CHERYL DAVENPORT to the Minister for Finance representing the Minister for Women's Interests:

The Government currently has the goal to improve women's safety at home, at work and in other settings -

- (1) Has the Minister for Women's Interests negotiated with the Minister for Local Government with a view to convincing local government authorities around the State on the need for town and suburbs safety audits?

- (2) If not, why not?
- (3) If so, what positive progress has occurred?

Hon MAX EVANS replied:

The Minister for Women's Interests has provided the following reply -

- (1) No.
- (2) The Government's Two Year Plan for Women report released last year outlines a range of actions currently undertaken by government agencies to improve women's safety. These are being monitored by the Women's Policy Development Office. Specifically, the Government is implementing the Family and Domestic Violence Action Plan with funding of over \$7m to improve services for women on a regional basis. The Police Service is managing \$500 000 in 1996-97 to develop local crime prevention strategies which will improve women's safety at the local level.
- (3) Not applicable.

HOSPITALS - ROSTERING SYSTEM

ROSTAR - Funding

358. Hon MARK NEVILL to the Minister for Finance representing the Minister for Health:

Further to question on notice 204 relating to the ROSTAR system -

- (1) What funds have been paid to Ferntree Computer Corporation and Australian Technology Resources for the cost and development of this system?
- (2) What funds have been paid to Platinum Technologies for the cost and development of this system?
- (3) Over what period were the payments paid?

Hon MAX EVANS replied:

The Minister for Health has provided the following reply -

- (1) Ferntree Computer Corporation has received \$1 181 000 in payments under a fixed price arrangement for the development of the ROSTAR system. No direct payments have been made to Australian Technology Resources, who were subcontracted by Ferntree Computer Corporation.
- (2) None.
- (3) January 1995 to March 1997.

QUESTIONS WITHOUT NOTICE

CHALLENGE STADIUM - PAULINE HANSON RALLY

261. Hon GRAHAM EDWARDS to the Minister for Sport and Recreation:

I refer the Minister to the decision of the Western Australian Sports Centre Trust to allow the Challenge Stadium to be used for the Pauline Hanson rally. Did the Minister approve the use of this WA taxpayer funded elite sports stadium for her rally?

Hon N.F. MOORE replied:

The matter was not referred to me. As Hon Graham Edwards knows, the Western Australian Sports Centre Trust is a statutory body and has responsibility for managing the Challenge Stadium. As far as I am aware, it has taken the decision to rent out the stadium for the purpose he states, as it does for many other purposes. The matter has not been referred to me and I do not believe it is appropriate that the trust should have to refer to the Minister when it wants to rent out its premises to anybody who wants to hire them.

CHALLENGE STADIUM - PAULINE HANSON RALLY

262. Hon GRAHAM EDWARDS to the Minister for Sport and Recreation:

Given that the Minister was not consulted and that he did not approve the use of the Challenge Stadium for the purpose of the Pauline Hanson rally, was he aware that under section 9(2)(a) of the Western Australian Sports Centre Trust Act he is required to approve such use of the stadium? For the Minister's benefit, section 9(2)(a) of the Act provides that the trust has power -

to use or authorise the use of the Centre for activities of a sporting, recreational, educational or cultural nature or for the purposes of public entertainment or any public purpose approved by the Minister;

Will the Minister now take immediate steps to prevent the use of the Challenge Stadium for such a political rally?

Hon N.F. MOORE replied:

I was not aware of that section in the legislation. I am responsible for many Acts but I am not aware of all sections in them. However, I am happy for the board to make decisions of this nature as it consists of a group of people who are capable of managing the affairs of the Western Australian Sports Centre Trust. Those people were appointed in accordance with rules that were introduced during Hon Graham Edward's time as the responsible Minister for the trust. I have no intention of overruling them on this occasion.

CHALLENGE STADIUM - PAULINE HANSON RALLY

263. Hon GRAHAM EDWARDS to the Minister for Sport and Recreation:

I gather from the Minister's answer that he intends to disregard the Act.

Mr Foss interjected.

Hon GRAHAM EDWARDS: I am not asking the Attorney General the question.

The PRESIDENT: Order! Hon Graham Edwards should ask his question.

Hon GRAHAM EDWARDS: The Minister has indicated that he is prepared to disregard the Act. I ask him as a matter of courtesy whether -

Point of Order

Hon PETER FOSS: It is improper in a question to assume a particular point which has not been agreed to. The question is out of order.

The PRESIDENT: Order! Hon Graham Edwards knows that what he is doing is out of order. That is the point I was trying to make when I called for order earlier. The member should reword his question.

Questions Without Notice Resumed

Hon GRAHAM EDWARDS: Does the Minister know whether the trust management has shown the courtesy of consulting Challenge Bank on this matter and whether Challenge Bank is happy to have its name associated with this politically divisive rally that will take place at Challenge Stadium?

The PRESIDENT: Order! The last half of the question is out of order, but the Minister may answer the first part.

Hon N.F. MOORE replied:

If the honourable gentleman wants to know the situation pertaining to Challenge Bank, I suggest he ask it.

JANDAKOT AIRPORT - CIRCUIT TRAINING

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

- (1) Have any dates been set for the cessation of circuit training for pilots at the Jandakot Airport?
- (2) Are any time restrictions being observed for circuit training from Jandakot Airport?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1)-(2) Responsibility for air traffic control associated with air traffic at the Jandakot Airport rests with the Federal Government through Air Services Australia. Circuit training at Jandakot Airport is not permitted between

the hours of 10.30 pm and 6.00 am. I will be meeting with the Federal Airports Corporation and Air Services Australia to discuss this issue.

LABOUR RELATIONS LEGISLATION AMENDMENT BILL - ADVERTISEMENTS

Complaint

265. Hon JOHN HALDEN to the Minister representing the Minister for Labour Relations:

I refer the Minister to his answer to my question without notice asked yesterday in which he stated that legal advice was sought on a complaint to the Federation of Commercial Television Stations regarding the advertisements for the Labour Relations Legislation Amendment Bill. In that answer the Minister stated that the advertisements had been modified in accordance with that legal advice.

- (1) What modifications were made to the advertisements?
- (2) Why were those modifications made?
- (3) Will the Minister table the legal advice that was sought?
- (4) If not, why not?
- (5) Is the Minister in receipt of the comments made by the Federation of Commercial Television Stations on this matter?
- (6) If so, will he table those comments?
- (7) If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The words "right to" were changed to "opportunity of".
- (2) To avoid any semantic arguments which would unnecessarily delay the advertising campaign.
- (3) No.
- (4) It is not practice to table legal opinions received.
- (5) No.
- (6)-(7) Not applicable.

HEALTH - DRUG ABUSE

Heroin - Government Action

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

I refer the Minister to his answer to question without notice 73 asked on 13 March 1997 in which he stated that the incidence of admittance to Western Australian hospitals due to heroin dependence had risen from 59 in 1993 to 441 in 1996. At the same time, the incidence of heroin overdose rose from 25 in 1993 to 105 in 1996.

- (1) What programs, if any, is the Government implementing to reverse this trend?
- (2) What funds have been allocated to these programs in each of the years since their inception?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) The Government through the Central Drug Coordinating Office, the Health Department of Western Australia, the Alcohol and Drug Authority, police, and with the cooperation of St John Ambulance Services and key non-government agencies, is implementing a range of strategies to reduce the number of heroin overdose deaths. These strategies include increased law enforcement; a public education campaign; targeted outreach drug overdose education programs; expansion of the Alcohol and Drug Authority's methadone program; and collaborative research involving the Central Drug Coordinating Office, the police and the National Centre for Research into the Prevention of Drug Abuse.

- (2) The Alcohol and Drug Authority has been provided with an additional \$300 000 in 1996-97 to expand the methadone program. The other strategies are being managed within existing agency budgets.

ALCOHOL AND DRUG AUTHORITY - EMPLOYEES

Number

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

Some notice of this question has been given.

- (1) How many employees were there at the Alcohol and Drug Authority in:
- (a) 1993-94?
 - (b) 1994-95?
 - (c) 1995-96?
- (2) How many employees are currently at the Alcohol and Drug Authority?
- (3) At what Public Service levels, and in what number, are those people employed?

Hon MAX EVANS replied:

- | | | |
|-----|-----------|--------|
| (1) | Employees | FTEs |
| (a) | 175 | 163.63 |
| (b) | 151 | 148.49 |
| (c) | 144 | 139.64 |
- (2) There are 162 employees, which is 145.27 full time equivalents, as at 30 April 1997.
- (3) Level 1, 20; level 2, 23; level 3, 13; level 4, 7; level 5, 40; level 6, 25; level 7, 15; level 8, 5; level 9, 6 and above level 9, 8.

ROADS - FREMANTLE

Bypass - Transport Action Coalition's Meeting with Minister

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

Some notice of this question has been given.

- (1) Did the Minister meet with the community group the Transport Action Coalition on 9 April 1997 to discuss the Fremantle eastern bypass?
- (2) If yes, to what did the Minister agree in relation to -
- (a) The Main Roads public workshop and community consultation process?
 - (b) Traffic calming along Hampton Road in Fremantle?
 - (c) Environmental, social and economic studies of all the alternatives to the Fremantle bypass?
 - (d) An origin-destination survey in relation to the north-south and east-west traffic movements for the proposed Fremantle bypass?
- (3) Who will be organising, facilitating or carrying out the above?
- (4) Is the rail-light rail link with Rockingham included in the list of alternatives to be addressed in a new community consultation process?
- (5) If not, why not?

Hon E.J. CHARLTON replied:

- (1) Yes.
- (2) (a) The current program of workshops to examine details of the proposed bypass have been postponed until a paper is finalised in accordance with what was agreed to at the meeting.

- (b) Main Roads will arrange for a study to be carried out to examine the impact of traffic calming on Hampton Road. This would include an origin and destination survey, particularly for heavy traffic.
- (c) Main Roads is to prepare a paper which summarises the reasons to proceed with the Fremantle eastern bypass on the present alignment. The paper will address the social, economic and environmental impact of all the options considered during the decision making process. This paper will allow people to be fully informed of the reasoning and planning for the bypass.
- (d) A traffic study was undertaken in October 1996 using the Main Roads traffic model.
- (3) Main Roads will undertake the work using consultants for particular elements.
- (4)-(5) No. The paper being prepared by Main Roads addresses the social, economic and environmental impact of all the options that were considered during the decision making process. Rapid public transport to centres south of Fremantle is being adequately catered for through separate government strategies.

TOURISM - ELLE RACING

Contracts

269. Hon TOM STEPHENS to the Minister for Tourism:

I refer the Minister to question without notice 238 of 29 April. Does the Minister now have an answer to the question? It reads -

- (1) Can the Minister confirm that a representative of the Government recently flew interstate to discuss or examine the contracts between the Western Australian Tourism Commission and EventsCorp and John Harvey of Elle Racing Pty Ltd?
- (2) If yes, who was this representative, and what were his qualifications to represent the Government?
- (3) Under whose authority did the representative make the trip?
- (4) Was the representative satisfied that all sections of the contract were being complied with?
- (5) If no to (4), what contractual obligations are not being complied with?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Two representatives of the Western Australian Tourism Commission went to Sydney recently to meet with Mr Harvey and others involved with Elle Racing Pty Ltd.
- (2) Mr Grant Donaldson of the Crown Solicitor's Office and Mr Ross Norgard of Norgard Clohessy. Mr Norgard is an accountant with many years experience as an accountant and financial adviser. He also has experience in yacht construction and racing.
- (3) The Western Australian Tourism Commission.
- (4)-(5) On advice from the Crown Solicitor's Office, I am not prepared to give details of the contract or the compliance at this stage. However, I have made an offer to Dr Gallop, the Leader of the Opposition, for senior officers of the Western Australian Tourism Commission to brief him on the contract and the current situation in confidentiality so that he can be reassured on all aspects of the contract, including compliance. Dr Gallop has refused that offer.

RAILWAYS - WESTRAIL

Comments by Chairman of Co-operative Bulk Handling

270. Hon KIM CHANCE to the Minister for Transport:

Some notice of this question has been given.

- (1) Is the Minister aware of the comments made by the Chairman of Co-operative Bulk Handling Ltd on 6 March at CBH's sixty-fourth annual general meeting in which he noted that Westrail had experienced many problems with delays, engine failures and resources shortages, and that cost cutting and rationalisation had caused Westrail to become inefficient and inadequate for the task required by CBH? He said that this was causing difficulties for CBH and its employees.

- (2) Has the Minister spoken to the Chairman of Co-operative Bulk Handling Ltd about the concerns he expressed?
- (3) To what extent are these difficulties directly related to the Minister's Right Track program, and to what extent do they relate to the contracting out of locomotive and rolling stock maintenance?
- (4) What change is the Minister proposing, if any, to correct the situation and ensure that Westrail continues to be a prompt and reliable carrier for CBH?

Hon E.J. CHARLTON replied:

- (1)-(4) I have no notice of that question, but I can respond to the question in total. Yes, I am aware of the comments made by the Chairman of Co-operative Bulk Handling Ltd, and I have spoken to him extensively on two or three occasions since then. I think I was able to demonstrate to him that the reasons for the situation he perceived were not fact. In the current harvest, Westrail will move about 6.2 million tonnes of grain, compared with 3.5 million tonnes five years ago; that is almost double the grain moved by Westrail in the previous period.

Westrail is contracted to the Wheat Board to move the grain, and Westrail has actually moved more than it was contracted to move. The harvest was 20 per cent above that expected. Obviously the contractual arrangement with the Wheat Board necessitated a lot more grain to be moved in the period than outlined in the contract. In addition, because of the Wheat Board's additional marketing initiative, agreed to by all in the industry, even greater pressure was applied to ensure that additional grain could be transported to the various ports around the State, particularly in the immediate after-harvest period.

CBH was put under enormous pressure to deliver additional tonnage from its system to the Westrail network. Westrail, in cooperation with the Wheat Board and CBH, put in place an updated program which saw grain being taken from other receival points which otherwise would not have been in place; in other words, they took it from fast loading outlets to ensure that greater tonnage was taken on rail during that period. In addition, we had grain transported on road from a number of receival points around the State to the fast loading centres.

The member would be aware that Westrail has not had the capacity to meet what we hope will be future increased harvests of grain. The State production has gone from five million tonnes five years ago to about 10 million tonnes this year. I have put in place a new Grain Logistics Committee, comprising the players in the Grain Freight Steering Committee. The new body is about planning what is required. I have said to Westrail, the Wheat Board, CBH and the Grain Pool that it is up to them to determine what they want, as they are all segments of the total grain industry.

The situation this year has nothing to do with the changes. In fact, the changes made to Westrail have enhanced its capacity to do the things it has done. Thirty new locomotives are being built. We would be in a terrible situation if we did not make that decision. An amount of \$250m has been spent on the railway lines, \$80m of which has been spent on the train lines. The member can be confident of Westrail's meeting any demands put on it by the grain industry. The grain industry will tell Westrail how many tonnes it wants carted in a period and whether it wants 10 per cent or 20 per cent margin in the system to meet unexpected operations. However, it has to advise Westrail of that. It is not for Westrail to put some mechanism in place to cope with that which may or may not happen. That is why I have put an independent chairman in place. He will ensure that all the players cooperate with each other in planning for the next five, 10 or 25 years to meet what is expected to be a 15 million tonne crop in the years ahead.

ROADS - PERTH-BUNBURY

Peel Deviation - Environmental Impact

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

I refer the Minister to question without notice 100 of 19 March 1997 with regard to the Perth-Bunbury Highway Peel deviation public environmental review. Given that Senator Robert Hill, the Minister for the Environment in the Federal Government, advised in answer to question on notice 477 in the Federal Parliament that his department was not aware, nor had been advised, of the Peel deviation road or its impact on the Ramsar registered wetland area, will the Minister explain why no notice of liaison was given as required in the Main Roads environmental manual or in the consultant's brief?

Hon E.J. CHARLTON replied:

I thank the member for some notice of the question. As I answered in question 102, there is no impact on the Ramsar wetlands by the proposed Peel deviation. Therefore, there is no requirement to advise the federal Minister for the Environment. At the closest point, the wetlands will be at least 3 kilometres from the new road.

RAILWAYS - WESTRAIL

*Privatisation - Prospector***272. Hon KIM CHANCE to the Minister for Transport:**

Yesterday, the Minister claimed that he would move towards the privatisation of passenger rail services on the *Prospector* because, in part, staff had refused to move to Kalgoorlie. I ask -

- (1) Is the Minister aware that some of the passenger staff are based in Kalgoorlie contrary to his statement yesterday?
- (2) Is the Minister aware that the majority of *Prospector* passenger rail staff need to be based in Perth because they are also required to service the Avon Link rail between Perth and Northam?

Hon E.J. CHARLTON replied:

- (1)-(2) If some of them are located in Kalgoorlie, I accept the members comment. I was advised that that was not the case. I will double check that. The bottom line is that an independent report recommended that changes must be made to the on-train service. We accepted that recommendation as we will be accepting many other recommendations. I am looking forward to making all the recommendations public in the very near future as I am looking forward to getting the new trains for the Avon Link and the *Prospector*.

RAILWAYS - WESTRAIL

*Debt Level - Expansion***273. Hon KIM CHANCE to the Minister for Transport:**

- (1) Will the Minister explain how, during the term of this Government, Westrail's debt level has blown out by almost 70 per cent even though there has been no major infrastructure expenditure?
- (2) Has the Minister achieved his claimed operating profit by moving major items of expenditure such as track maintenance into the capital budget?
- (3) Does this explain why the Government has taken Westrail's operations out of the budget papers and there is no longer a consolidated fund reporting agency?
- (4) When will the Minister make Westrail's accounts available to Parliament so that his Government's performance can be properly assessed?

Hon E.J. CHARLTON replied:

- (1)-(4) The information is available now. It is in the annual report. Therefore, the honourable member has an opportunity to examine Westrail's accounts. It is not a matter of what is Westrail's debt level; it is a matter of its capacity to meet its debt level from its operations. It is the same as any business. A larger debt does not mean that the business is less viable. I can vouch for that personally. It is one thing to have no debt and no assets; it is another thing to have some debt provided one can demonstrate one has the capacity to repay it and finish up with a worthwhile asset.

Westrail has been judged to be a very profitable operation. That includes its capacity to service its debt. It has expanded its debt level in conjunction with the improvement of its efficiency to meet that ongoing debt. In fact, Westrail has just been judged by an independent authority to be making the greatest progress of any railway in Australia. I am not surprised about that; I would have been surprised if that were not so. I was given that report today. In addition, Westrail has also been judged by independent financial analysts as having a very valuable asset. It has a very significant cash flow which it has generated through its extra activities - one of which is included in the answer I gave to the previous question.

TOURISM - ELLE RACING

*Contracts - Compliance***274. Hon TOM STEPHENS to the Minister for Tourism:**

Some notice of the question has been given to the Minister.

- (1) Did the Government send an officer from the Crown Solicitor's Office to New York to hold discussions with solicitors representing Elle Macpherson?
- (2) Did these discussions relate to the contracts the Western Australian Tourism Commission entered into with Elle Racing Pty Ltd?
- (3) If yes to (2), were there concerns about compliance with these contracts?
- (4) What were the concerns?
- (5) Have they now been resolved?

Hon N.F. MOORE replied:

The honourable member asked me this question on Tuesday, I think. I said then that I did not have the complete answer. I still do not have it. I will endeavour to provide him with the answers next Tuesday. The Chief Executive Officer of the Tourism Commission, with whom I wish to talk about this matter, has been overseas this week. I will give the Leader of the Opposition an answer on Tuesday.

GLOBAL DANCE FOUNDATION - WESTERN AUSTRALIAN TOURISM COMMISSION

*Representative***275. Hon TOM STEPHENS to the Minister for Tourism:**

With regard to the Global Dance Foundation -

- (1) Who was the Western Australian Tourism Commission representative on the board of management of the Global Dance Foundation?
- (2) Did that representative occupy an executive position on the board and if so what position?
- (3) Why did EventsCorp seek to have the appointment of the WATC representative on the board of management of GDF recorded at the Australian Securities Commission?

Hon N.F. MOORE replied:

I thank the member for some notice of the question.

- (1) Ruth Harrison.
- (2) The representative was a non-executive director.
- (3) EventsCorp did not seek to have the appointment recorded at the Australian Securities Commission.

RAILWAYS - WESTRAIL

*Current and Capital Accounts - Tabling***276. Hon KIM CHANCE to the Minister for Transport:**

I hope the Minister has received notice of my question. In his answer to my question without notice 217, the Minister claimed that Westrail had made a profit this year for the first time. I ask -

- (1) In order that the accuracy of this claim can be established, will the Minister table the current and capital accounts for Westrail?
- (2) If the Minister is unable to do that, why?

Hon E.J. CHARLTON replied:

I thank the member for some notice of the question.

- (1)-(2) The information requested by the honourable member has already been tabled in the House in Westrail's 1996 annual report. I direct the honourable member to pages 53, 54, 61, 62, 68 and 69 of that report.

GLOBAL DANCE FOUNDATION - CONTRACT

Compliance

277. Hon TOM STEPHENS to the Minister for Tourism:

Some notice of this question has been given. With respect to the agreement signed in May 1994, which saw \$430 000 of taxpayers' money handed over to the Global Dance Foundation -

- (1) Can the Minister confirm that -
 - (a) in August a letter was sent seeking an overdue report;
 - (b) in September 1994 a letter was sent expressing concern about expenditure;
 - (c) in November 1994 a letter was sent expressing 'extreme concern' about the fees being deducted;
 - (d) in December 1994 a letter was sent threatening legal action for non-compliance with the agreement?
- (2) Can he also confirm that during that period -
 - (a) there was no board of management of the Global Dance Foundation; and
 - (b) no foundation meetings were held?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)
 - (a) Yes.
 - (b) A letter was sent asking for clarification on some budget items.
 - (c) A letter was sent expressing concern and seeking clarification about some items of expenditure related to management fees.
 - (d) A letter was sent detailing actions and failures in performance by the foundation with regard to its obligations under the agreement. It did not threaten legal action but reminded the chairman of Global Dance Foundation that the Western Australian Tourism Commission had to protect and enforce its rights.
- (2)
 - (a) I cannot confirm that there was no board of management, but I can advise that the chairman of the board of management advised the WATC that there were six members on the board of management at the date of the signing of the agreement.
 - (b) This information is not required under the contract. However, I am advised that the WATC was advised that meetings were held during that period.

GILBERT INTERNATIONAL - VICE CHAIRMAN

Overseas Travel

278. Hon TOM STEPHENS to the Minister for Tourism:

- (1) In September 1996, who was the vice chairman of Gilbert International?
- (2) Did the vice chairman of Gilbert International travel overseas seeking sponsorship for the staging of the Word Dance congress?

If yes -

- (3) When did this trip occur?
- (4) Who met the cost of this trip and, if it was from funds supplied by the Government, how much did it cost?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The Western Australian Tourism Commission was not aware of the name of the vice chairman of Gilbert International in September 1996. However, WATC holds the contract with the Global Dance Foundation.
 - (2) The WATC was advised in writing by Peter Reynolds that the vice chairman of Gilbert International intended to travel overseas to seek sponsorship for World Dance Congress.
 - (3) The WATC was advised in writing by Mr Reynolds in September that the trip was planned in October 1996.
 - (4) EventsCorp had been advised by Peter Reynolds that no expenses for the trip were provided to the vice chairman of Gilbert International from its account.
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