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(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE COUNCIL

Tuesday, 28 March 2000

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 3.30 pm, and read prayers.

EDUCATION FACILITIES, BUNBURY, BUSSELTON AUSTRALIND, EATON

Urgency Motion

THE PRESIDENT (Hon George Cash): I have received the following letter addressed to me and dated 28 March -

Dear Mr President

At today's sitting it is my intention to move under SO72 that the House at its rising adjourn until 9am on 25 December 2000 for the purpose of discussing the Government's failures to provide adequate education facilities for Bunbury, Busselton, Australind and Eaton.

Yours sincerely
Hon Bob Thomas MLC
Member for South West Region

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

[At least four members rose in their places.]

HON BOB THOMAS (South West) [3.33 pm]: I move -

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

I thank the members who stood in support of the motion. It is often said that the best start in life we can give our children is a good education.

Hon Ken Travers: And a Labor Government.

Hon BOB THOMAS: This is usually taken to mean -
Several members interjected.

The PRESIDENT: Order! Your own colleague is not more than 30 seconds into his speech. Give him a chance.

Hon BOB THOMAS: This is usually taken to mean a university or post-compulsory vocational education. However, it holds just as true for primary and secondary education. Parents want their children to have access to quality educational opportunities during their formative years on which to build in their later life. Put simply, parents want the State Government to provide a system that maintains the highest possible standards for their children. Unfortunately, this State Government has failed in its obligations to the parents of children in Bunbury, Australind, Busselton and Eaton. One of the most oft-asked questions of me is why this Government is spending money on belltowers and other monuments to itself when school facilities in the area are being run down. That is why I have moved this motion today.

Hon Simon O'Brien: How many times have you been asked that?

Hon BOB THOMAS: Plenty of times. The member should get out into the electorate and talk to parents. If members opposite are not getting this message, they should look at the polling, because it will ring alarm bells.

I will deal first with the Bunbury area. In doing so, I will compare the record of the Labor Government with the attitude of this Government. During our term in office - from 1983 to 1993 - the northern suburbs of Bunbury, including Clifton Park, Australind, Eaton and Leschenault, experienced massive population growth. The Labor Government responded to that growth by building three new schools and a university. The new schools were Australind Senior High School, Clifton Park Primary School and Parkfield Primary School, and planning was well under way in the Ministry of Education for a new school to replace the Picton Primary School.

In contrast, this Government has sat on its hands. It had to be dragged kicking and screaming to honour its election promise to build a new school at Carey Park. It was not until 200 angry parents protested outside the member for Mitchell's office in 1998 that the Government honoured its promise to build a new school at east Eaton, which will now be called Glen Huon. I could never understand why this Government was not responding to that population growth and the glaring need for education facilities in that fast-growing area north of Bunbury. The truth was revealed to me in a debate in this House on 30 June last year. We were discussing one of the budget Bills, and I was referring to the previous Labor Government's record in that area and lamenting the fact that the current State Government was not doing enough. The then Minister for Finance, Hon Max Evans, let the cat out of the bag. He explained that this Government was taking the voters of the south west region for granted. I accept that the Government holds all the seats in that region, and most by a very large margin. However, in response to my comparison of the records of the two Governments, the minister stated -

But you were busy trying to retain the seat down there; that is why you put all the money in down there. We were trying to build some seats elsewhere. You were just straight out pork-barrelling down there.

That explains the Government's attitude to education facilities in the Bunbury area. Members opposite are taking those voters for granted because they think they can build up seats elsewhere. That also explains the Minister for Education's attitude.

There is a pressing need for a kindergarten on the Bunbury Primary School site. The school currently has a preprimary school and two sessional classes for kindergarten children - the four-year-old children. When those children come into the kindergarten on Tuesday and Thursday afternoons, the preprimary, or five-year-old, children go to the school and use other facilities such as the library. A kindergarten facility is needed there. What is this Government's answer to the problem? It is not to provide the very much-needed facilities. The Minister for Education has written to the principal of the school and suggested that the school sell off some of its playing fields. The school covers a small area by any standards; I do not think that it has the full area available to a primary school, yet this Government wants the school to sell off some of that land. On 13 March 2000, Hon Colin Barnett wrote to Mr Alan Kidd, the principal. In the fourth paragraph of the letter he wrote -

Although the site is smaller than average, the school seems to have an abundance of play space. It may be possible to fund a permanent early childhood education facility through the sale of a small amount of school land on the boundary near the motel, without significantly affecting the operations of the school.

That is this Government's attitude to education. It is not prepared to meet its obligations to the parents of this State. It wants to provide education on the cheap. One need only look at the example of Bunbury.

Another example of this Government providing education on the cheap can be seen through its obsession with a super school senior campus in Bunbury. That issue will be raised in this House at another time because I do not have time today. It will spell the Government's death warrant. If the Government's record in Bunbury, particularly in the fast growing northern suburbs is abysmal, it is culpable for the way it has treated the Busselton area. People who know Busselton will understand that massive population growth has taken place in that area. The Western Australian Planning Commission estimated that the population would grow to about 24 000 by the year 2011 based on the 1996 census statistics. The population has already exceeded that figure, and it is only the year 2000. People will recognise the growth taking place in the Bayside, Port Geographe and Wonnerup areas in the north and in a strip on the eastern side of Bussell Highway near the Abbey development, Broadwater and Vasse. Massive housing development is taking place there, and it is not all retirement housing. A lot of family housing is being built there. That is placing an enormous strain on the existing education infrastructure in Busselton.

The Busselton Primary School currently has 530 years 1 to 7 students. Its site contains a preprimary school and kindergarten. The school was built in 1998. The Government says that it can accommodate a further 180 students. They will be housed in transportables. The problem is that the transportables will encroach onto the playing fields of the school. The extra population growth will put extra pressure on the existing specialist and other facilities, such as the toilets and the undercover area. When all those transportables are on site, the full complement of students will not be able to attend an assembly. There will have to be offset assemblies. Because the school is in the middle of an urban area, parking facilities for parents to pick up and drop off their kids are inadequate. I can see enormous problems for the kids in transportables who are farthest away from the school. They will have to run maybe 150 yards, but at least 100 yards, to the existing toilet area. The Parents and Citizens Association has had to take out a loan to provide covered walkways at the school. As I say, the school was recently built. In order to do that the Government sold off the Busselton central site for \$6.4m.

Hon Barry House: It was \$6m.

Hon BOB THOMAS: It sold it for \$6m, which meant a surplus of about \$2m. That surplus did not go back into the education infrastructure in the Busselton area, but went to the consolidated fund of the Education Department. If it had gone into education facilities in the Busselton area, it could have been put to good use at Vasse Primary School. A new classroom block could have been built with two classrooms, a dedicated art and music room and toilet facilities.

Members may have seen the article in the *Sunday Times* of this Sunday referring to inadequate toilet facilities. The school has 38 full or part-time teachers, specialists and teachers aides of whom 30 are female. There is only one toilet that the female adults can use practically at that school. There are three other toilets for adults but they are in places such as the preprimary centre. The lunch and recess times of the preprimary school are staggered for better use of facilities. That means that if some of the adults want to use those toilet facilities, they must walk through classrooms in which classes are being taken. That is unacceptable. A new teaching block must be built with facilities for adults.

The Government also stands condemned for its failure to provide adequate facilities at West Busselton. This school has a teachers area which has been converted from a toilet block and a classroom which is a converted cloakroom. As a result, the school has inadequate toilet facilities. The music facilities are in what was the school canteen, which is a small area which housed workbenches and stoves. The school has no specialist art facility. The art teacher is an itinerant, moving from class to class carrying equipment. Wash basin facilities are on the far side of the school. The Government has said that it would be possible to put another five transportables at the school to accommodate another 150 students. The area in which the Government wants to put those transportables floods in winter. There would be enormous problems involved in raising the transportables, filling in the area or whatever. That is unsatisfactory. The Government must start planning immediately to build a new primary school in the Busselton area. I suggest that it be to the west of Bussell Highway near the Broadwater area.

Busselton Senior High School needs urgent maintenance work. Just as importantly, something needs to be done about

specialist education facilities at that school. The Government should explain why the school does not have an education support centre or unit status. If it did, it would immediately obtain extra resources. That would free up the old house, which is currently being used for that purpose. The canteen needs revamping. A very small verandah area is supposed to house hundreds of kids waiting to use the canteen facilities.

In conclusion, during our term of government, we built seven new schools per year in Western Australia. This Government is building five a year. The latest *Western Teacher* shows that the Government has reduced spending on education by 10 per cent, in real terms since 1992.

HON BARRY HOUSE (South West) [3.50 pm]: I first thank the Opposition for moving a motion referring to the area in which I live and work. The Opposition fleetingly discovered this area in recent weeks: The opposition Education spokesperson, Mr Alan Carpenter, was in the area two weeks ago, and I understand that Hon Bob Thomas and Hon Nick Griffiths took time out last week from the Bunbury races to visit Busselton as well. The Labor Party has virtually no permanent representation in the area. All 10 lower House seats for the area are held by the coalition. Where will the Opposition head in the future? Australian Labor Party pre-selections for the upper House were finalised about a month ago, and the former member for Mitchell Hon David Smith put forward his name. He actually knows the Bunbury area. Nevertheless, he was rejected. What team will members opposite take to the next election? It is headed by someone who lives in Fremantle - namely, Hon John Cowdell - and the second winnable seat is occupied -

Point of Order

Hon LJILJANNA RAVLICH: ALP pre-selection for the South West Region has no bearing on the motion before us.

The PRESIDENT: I would tend to agree with the member if the Parliamentary Secretary were intending specifically to focus on that issue. The Parliamentary Secretary must speak to the motion before us.

Debate Resumed

Hon BARRY HOUSE: I merely refer to the Opposition's representation and its knowledge of education facilities in the area. The ALP candidate in the No 2 position on the south west ticket lives in Bayswater and has no affinity with the south west. Hon David Smith has since resigned from the party in disgust, and the former member for Bunbury Phil Smith has publicly condemned the Labor Party for its action.

Several members interjected.

The PRESIDENT: Order! This is a limited-time debate. We do not need interjections.

Hon BARRY HOUSE: I welcome the Opposition's concern for education in the south west, although it has shown no interest in the area during the past decade. I suspect that the motivation for this interest is that the endorsed candidate for Bunbury is the Deputy Principal at Australind Senior High School. He needs something to fly with - he has precious little else.

Hon Christine Sharp: Tell us about the schools, not the politics!

The PRESIDENT: Order! Hon Christine Sharp will come to order.

Hon BARRY HOUSE: I will welcome Hon Christine Sharp's comment in a moment, as I understand she has discovered the area in the past week too.

The motion refers to the Government's failure to provide adequate education facilities for Bunbury, Busselton, Australind and Eaton. I refute that claim for a start, and proudly associate myself with the education facilities from kindergarten to tertiary education in the south west. I acknowledge the population growth of the area, which in general terms has been 5 or 6 per cent. I refer to Australind, Eaton, Busselton, Dunsborough and through to Margaret River. The changes in the demographics of the areas have resulted in population growth of up to 20 per cent in some schools. A few school populations have reduced, but most have increased by up to 20 per cent. Growth has been marked in the past few years and has been above prediction in virtually every case. That must be acknowledged, and it is not a bad problem to have as it indicates a dynamic economy and that employment and investment figures are rising all the time. The area is in good hands. The Government can be proud of its contribution.

Schools are facing increased enrolments as a general rule. We all know that. Local area planning processes are in place in both Bunbury and Busselton. I have a list of figures indicating the broad enrolment increases in these areas. When making projections towards 2001, we must take into account the impact of the half cohort of kindergarten students in 2001. That is included in the projected enrolments. I am not sure whether the Opposition has understood that fact and factored it into its figures.

A new school will be provided in the Busselton area within the next few years. Two sites have been identified, one near Broadwater and one near the South Busselton area. The site will be decided once the local area planning process is finished, and a draft plan will be in the minister's hands by the end of next month. Provision will be made for not only upgrades to many of the primary and high schools in the area, but also for a plan for a new school.

The Busselton Schools Action Group, members of which I am sure the Opposition has met, is worth mentioning. Members of the group deserve credit for raising the awareness of the education facilities in Busselton. I arranged for representatives of that group to meet the Premier, the Minister for Education and the Director General of the Education Department prior

to Christmas last year. The group has done a lot of work in collating information in the area, but has tended to become a little overenthusiastic in some regards. First, some of the figures they produced last year indicating a growth rate of 17.9 per cent in the number of students in Busselton schools involved some double counting. The figure is more like 12 to 14 per cent. The other piece of overenthusiasm - I am not sure that it was their fault, as maybe we should look at journalistic ethics - involves a newspaper report on Sunday linking the Queen's impending visit to the area with Vasse Primary School's toilet facility. The article was accompanied by a photograph of several women lining up for the toilet. I know three of the women lining up for the toilet, and none of them is a teacher. Let us consider the absolute beat-up of the situation.

Hon Tom Stephens: Are you saying that they are all Labor Party people?

Hon BARRY HOUSE: Not at all. Two schools are being built in Bunbury. The Carey Park Primary School is being built, and its second storey is being added as we speak. That school is right in the heart of the Mitchell electorate, which was totally neglected for the 10 years of the Labor Government. Since we came to government, we have committed to build a new school and to undertake an extensive consultation process to explore other sites to ensure the best outcome for Carey Park.

Hon Bob Thomas interjected.

The PRESIDENT: Order! Hon Bob Thomas will have his opportunity to respond in due course, if time permits.

Hon BARRY HOUSE: The Glen Huon Primary School at East Eaton is being constructed, and the local area planning process is in train for the Bunbury area. An options paper is being developed which will be complete by June. The Minister for Education will then be in a position to announce the future education facilities for the area.

Hon Tom Stephens: It will be too late for the budget.

Hon BARRY HOUSE: Not at all. Allocations can be made for general school improvements in the budget, and specifics can be announced later. Members opposite would not expect the Minister for Education to pre-empt the consultation process. Consultation is under way and the Minister for Education will acknowledge the needs in those areas in the next couple of months.

HON CHRISTINE SHARP (South West) [4.00 pm]: I am pleased that Hon Bob Thomas has brought this important matter for our electorate before the House today. I congratulate him for that. The issue is not only about facilities in tertiary institutions, high schools and primary schools, but also the work that Hon Tom Stephens has been doing on the provision of library facilities in the south west, which are also seriously inadequate. I gather from Hon Tom Stephens that the ratio of books per person in libraries in the south west is one and one-quarter books per person, whereas in equivalent libraries in the eastern States it is four books per person. Libraries are important in the country because, despite the telecentres, it is relatively unusual for people to have computers and to be on the Internet. Libraries are still an important part of education facilities in our region.

As we are debating education issues in the Bunbury region, I would like to mention the Djidi Djidi Aboriginal School in Bunbury, which was in the news about a month ago. That school is located in Carey Park and has been so successful with the local Nyoongars that it wished to expand its facilities. Unfortunately, no permanent site has been organised for that school and at the moment students are still using part of the adjacent local parks and reserves to play in.

Hon Barry House: Is it such a bad thing to use joint facilities?

Hon CHRISTINE SHARP: No, it is not. However, when the Bunbury City Council states that the school cannot use those facilities, where does that leave that school, which is performing an important role for the local Nyoongar people?

I want to talk mainly about Busselton because, as Hon Barry House said, I am a recent visitor to schools in Busselton. That is because the Busselton action group has done an efficient job of lobbying members of Parliament about the condition of the educational facilities in the area. I was recently given an induction on some of the facilities there. I thought what was going on in Busselton was pretty poor. I could not get over the shock of the Government's closing a primary school in Busselton. Why is the Government in the business of closing down schools and selling the real estate? If the Government persists in that kind of privatisation of our educational facilities, surely to goodness all the money that has been raised in that regard should go back into education facilities. However, only \$4m of the \$6m raised from selling the central Busselton Primary School site was put back into schools in Busselton. That meant that only two-thirds of the sale proceeds went back into schools. When the replacement school was opened, it was extraordinary that, although we are talking about one of the fastest growing areas in Australia, it had two fewer classrooms than the school it replaced. How can the Government possibly think that a school that has two fewer classrooms than previously will be adequate to replace a school in one of the fastest growing areas in the country?

This year, Busselton Primary School has 700 enrolments, and was built for 450 students; Busselton Senior High School has 1 100 enrolments and was built for 900 students; Vasse Primary School has 470 enrolments, and was built for only 340 students; and West Busselton Primary School has 650 enrolments and was built for 400 students. That is a brand new school that was officially opened only in December.

Hon Bob Thomas: That is Busselton not west Busselton.

Hon CHRISTINE SHARP: Can Hon Bob Thomas clarify that he said that Busselton Primary School has 700 enrolments and was built for 450?

Hon Bob Thomas: Yes, that was Busselton Primary School.

Hon CHRISTINE SHARP: The situation is even worse than I thought. I feel really concerned at the inadequate situation in Busselton, especially when the Government spokesperson spends his time talking about election issues. That is not the point. People from Busselton want results from this Government. They were concerned when the minister made an announcement in December that there would be no funding for Busselton over the next 12 months. The Minister for Education may have changed his mind as a result of all this pressure. However, at that stage, the minister announced that there would be no allocation in the budget for Busselton.

The Vasse Primary School has 12 proper classrooms and 17 classes currently at the school. Classrooms are allocated in sites such as the former headmaster's house, the heritage school rooms, and the dedicated art room, which is now a full-time classroom. In this situation, Vasse has five classrooms which are inadequate. On top of that, the picture I saw overall in those schools is an attempt to keep up with the enrolments by providing classroom facilities, albeit transportables or other buildings that were designed for another purpose. That may be making do, as sometimes one must. When transportables are used, it is important to provide a covered walkway so that when the kids come out to play in winter they do not get soaking wet. However, none of those facilities is being provided. The kids are getting only the bare minimum of desk space. I gather that the situation in the West Busselton Primary School is so bad in winter that regular tests are done on the water and soil around the classrooms because the elevated watertable under the site is potentially a health hazard for the children.

The central Busselton Primary School, which is not central at all but is in fact in east Busselton, has demountable classrooms as brand new school rooms, and 10 more demountables are being planned for that school. None of them has a covered walkway attaching it to the main school. The local parents and citizens association has had to raise money to finish the job for the Education Department to provide boundary fencing and covers for the walkways.

The Busselton High School is extremely overcrowded. It has inadequate library facilities, no space for special teaching services or for students identified as being at risk.

Hon Barry House: Did you speak to the principal?

Hon CHRISTINE SHARP: I spoke to the principal of the high school, who showed me over the school. The caretaker's house is being used for classroom facilities. At every school in Busselton, classrooms are bursting at the seams, there is multiple use of demountable buildings as classrooms to squeeze in children, and there are no ancillary facilities such as libraries and covered walkways.

HON B.M. SCOTT (South Metropolitan) [4.10 pm]: I would like to put into perspective some of the comments made in the House today and oppose the motion moved by Hon Bob Thomas that the Government has failed to provide adequate education in Busselton, Bunbury, Australind and Eaton. I am sure every person in this Chamber will agree that all Governments should spend more money on education. That is not an area for debate, because we would all like to see more money spent on education and no doubt health and one or two other areas. There will never be sufficient funds to satisfy everybody.

I want to put into perspective some of the huge growth areas in schooling that this Government has had to accommodate due to the lack of action by the previous Government in 1990-91, when it promised to place every Western Australian four-year-old child in kindergarten.

Although the Busselton area is one of the fastest growing areas in the State for a number of reasons, the present growth rate in the school population of Western Australia has not been seen previously, nor is it likely to be seen in this State for the next 20 to 50 years. The addition of 24 000 preprimary and 20 000 kindergarten children to the total school population in three to four years due to this Government's policies, has created a huge cost and management exercise. Hon Barry House referred briefly to the expansion of primary schools that is needed to accommodate the fact that five-year-olds will be changing from four half days a week to four full days a week and to five full days a week in 2002. That will create a huge demand for space. The kindergarten children have been brought on stream in Western Australia at a pace unlike that seen in any other State in Australia. There are now 20 000 four-year-old children in this State attending two school sessions a week at minimal cost to parents. No other State in Australia provides two years of preschool education, which is non-compulsory, voluntary schooling.

In 1999 the Busselton Primary School had a total enrolment of 673 children. In February 2001 that figure will drop slightly due to the half cohort of four-year-olds who will attend kindergarten. The number will rise slightly in 2002. The House may not understand that, in 2001, only half the cohort - 12 500 children throughout the State - will be taken into kindergarten programs. The following year the five-year-old enrolments will increase to five full days. That may not seem like many children to members opposite, but it will create a huge accommodation demand. This Government and the Education Department have managed that program and the increases in those areas in a way that I have not seen before. This school year began with only a few teacher vacancies, which is an excellent record.

Dunsborough Primary School enrolments will increase from 395 this year to 406 next year, dropping slightly the following year. In 1999 enrolments at Vasse Primary School were 409 and in February 2000 they reached 483, which has resulted in an increased need for accommodation. Enrolments are not expected to increase in 2001. In 1999 West Busselton Primary School enrolments totalled 590, increasing to 604 in February 2000. The same number of children is expected to enrol in 2001.

We must remember that school education in Western Australia has improved across the board. Local area planning has been implemented and the minister is awaiting the results of consultation in that area. In schools that have grown, particularly due to enrolments of younger children in the primary sector, demountable classrooms have been provided. No doubt parents want the best brick and tile classrooms for their children. However, that is not always possible; nor should it be provided, due to the need for flexibility in some suburbs. The results of planning are evident now in inner Perth suburbs where beautiful but empty brick and tile classrooms remain in areas that I will not name now. Most members who live close to Parliament House will know of the inner suburbs in which populations have changed and school sizes have diminished dramatically resulting in empty classrooms.

Transportable classrooms are cost effective. We must be cost effective when providing school education across the board. We must consider solutions that will provide flexibility when schools in new suburbs, for instance, experience huge increases in enrolments. Members who may not have had the benefit of seeing schools overseas will not be aware that many European schools devolve their classrooms around a cluster of permanent buildings by adding or dismantling buildings as the need arises. That is a very good arrangement. I have visited many good schools in England and Europe such as those, where the main administrative blocks are permanent fixtures and the erection of other buildings is somewhat more flexible. Transportable classrooms can be moved quickly and, unlike some brick and tile classrooms in older schools, they are airconditioned and provide conventional space.

I urge members opposite to consider carefully the positive aspects of the development of school programs, particularly for children in their early years. There has been a massive increase in enrolments. Accommodation has been provided and parents are very happy about it. In some cases they are leaving off-school sites that have perfectly good buildings, which does not please me, but parents are voting with their feet to take their children to schools to access early childhood programs.

It is wiser to say that, on balance, the Government of Western Australia has done a very good job in providing facilities in this area across the State and I see no reason that it should hide its head in shame, as Hon Bob Thomas suggested. I will say repeatedly that we will always - especially those of us with an educational background - want more money to be spent on education. The Education budget has been increased, and I will continue to press for increases. However, to say that we have let down this area is unfair, inappropriate and incorrect. The Government's results in education stand on its very good record.

HON MURRAY MONTGOMERY (South West) [4.19 pm]: Mr President -

Hon Ljiljanna Ravlich interjected.

Hon MURRAY MONTGOMERY: At least Hon Ljiljanna Ravlich is not standing; I am. It is interesting that this motion refers to the supposed failure of the Government to provide adequate education facilities.

Hon Bob Thomas: Does the member think they are adequate?

Hon MURRAY MONTGOMERY: It is interesting to look at the number of schools that are being built across the south west. Hon Barbara Scott said that it does not seem to matter what a wonderful opportunity is being provided by our growing population. Educational facilities cannot be planned in any shorter time frame than five years because we do not know more than five years in advance where the populations will be.

Hon Ljiljanna Ravlich: What is the Government's plan for the next five years?

Hon MURRAY MONTGOMERY: The Government has set up local planning groups.

Hon Ljiljanna Ravlich: What is their plan for the next five years?

Hon Derrick Tomlinson: Sound financial management and good government.

Hon MURRAY MONTGOMERY: The Opposition is now asking what the plan is for the next five years. It will have to wait until May, when it will find out what is in the budget.

Hon E.R.J. Dermer: Have they let Hon Murray Montgomery in on the secret?

Hon MURRAY MONTGOMERY: Why would the member ask me what the secret is?

Hon E.R.J. Dermer: Hon Murray Montgomery said we will have to wait to find out. Did they not let him know either?

Hon MURRAY MONTGOMERY: The Opposition must wait to find out. Maybe I must wait to find out.

Hon Derrick Tomlinson: We know what the Opposition's plan is because we read Tony Blair's manifesto.

Hon MURRAY MONTGOMERY: Maybe Hon Bob Thomas remembers when he was going to school -

Hon Barry House: Hon Bob Thomas knows about Busselton one week ago. That is when he discovered it.

Hon MURRAY MONTGOMERY: I am glad the member discovered Busselton as it is a nice place to visit and to live. Many people are finding that it is a nice place to live.

Thirty-odd years ago there was a bump in the education system because of the huge influx of children entering the system between 1969 to 1971. There was a great bump in 1971.

Hon Ljiljanna Ravlich: Why was there a bump?

Hon Derrick Tomlinson: They were the children of baby boomers!

Hon MURRAY MONTGOMERY: The children that were born a few years previously were entering the school system. Hon Ljiljanna Ravlich may have been one of those. An explosion is occurring again because of the number of people who are going to the south-west corner to enjoy the local lifestyle. Hon Bob Thomas said five schools are being built in the State. He may need to reflect on that.

Hon Bob Thomas: Five schools a year are being built.

Hon MURRAY MONTGOMERY: I can think of five that are being built in his electorate right now.

Hon Bob Thomas: The Leader of the House does not lie and those are his figures.

Hon MURRAY MONTGOMERY: Hon Bob Thomas was the person who put up the figure of seven that the Opposition built.

Hon Bob Thomas: It is on the record.

Hon MURRAY MONTGOMERY: Is it on the record?

Hon Tom Stephens: All the Government knows how to do is dig tunnels and build belltowers.

Hon MURRAY MONTGOMERY: I am comfortable with the Government's record. The Government has been looking at the facilities in the south-west region. About 20 per cent of the State's total budget is spent in education. One can ask: Should we spend more money in health, law and order or should we spend it elsewhere?

Hon Ljiljanna Ravlich: Including the belltower?

Hon Derrick Tomlinson: Tell the House about the Labor Party's blue-sky petrochemical plant.

Hon MURRAY MONTGOMERY: It is interesting that people want to talk about everything else but this motion, belltowers included. I wonder which area of the myriad government programs the Opposition would cut to build these additional educational facilities? Maybe it would take the money from the Health budget or from roads and Aboriginal communities in the north of the State.

Hon Tom Stephens: We do not have a belltower in the north of the State.

Hon Derrick Tomlinson: No, but they have a ding dong!

Hon MURRAY MONTGOMERY: The Opposition has missed the point that education and the educational facilities in the south west must fall in line. I indicated to Hon Bob Thomas that I can name, off the top of my head, an additional five schools that are being built in the south west. He has indicated that more money should be spent, but the south west must compete with the metropolitan area and the agricultural regions.

Hon N.D. Griffiths: And the belltower.

Hon MURRAY MONTGOMERY: Well, the Opposition's belltower, was, of course, the blue-sky petrochemical plant. We are still trying to find out where that is.

Hon Derrick Tomlinson: What about Fremantle Gas and Coke Co Ltd?

Hon MURRAY MONTGOMERY: What about the Teachers Credit Society and all those things that absorbed a lot of money?

Hon Ljiljanna Ravlich: Hon Murray Montgomery is pretty desperate; all that is history.

Hon Derrick Tomlinson: We are still paying for it!

Hon MURRAY MONTGOMERY: There is competition for the education dollar. The Government has been able to allocate a fair portion of the Education budget into the South West Region for educational facilities. I am not ashamed that we have been building these schools and I do not see any reason that the Government should agree with the motion proposed by Hon Bob Thomas.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.27 pm]: This motion is another example of the Opposition's knocking, whining, whingeing and complaining about everything it can possibly think of. Members opposite are developing a serious reputation for being nothing but a bunch of knockers. They cannot spend five minutes thinking about why there is pressure on the education system in the south west.

Hon Bob Thomas: Because the Government cut spending by 10 per cent.

Hon N.F. MOORE: The pressure exists because the population in that region has grown dramatically. People see the south west as a place in which they can now get jobs and raise their families. The south west is booming because this Government's policies are resulting in industries developing in the south west that are attracting more people to that part of Western Australia. Bunbury is booming; the tourism industry in Busselton is growing in leaps and bounds; and further

south, the Augusta-Margaret River area is growing significantly because of the economic policies of this Government. As a result of that economic growth, more people are living in that part of the world. That is putting enormous pressure on the infrastructure required to service a growing population. A number of parts of Western Australia are growing rapidly and the Government is required to respond quickly to provide infrastructure. The Government has been delivering in those areas.

Motion lapsed, pursuant to standing orders.

RAIL FREIGHT SYSTEM BILL 1999

Discharge of Order of the Day

Resumed from 23 March on the following motion moved by Hon Kim Chance -

That the Order of the Day No 6 be discharged from the Notice Paper.

HON MARK NEVILL (Mining and Pastoral) [4.30 pm]: Last week when we were debating this motion to discharge the Bill I said that no valid reason had been put forward to discharge it. The amendment on the Notice Paper last November outlines all of the amendments I have had incorporated into this Bill, albeit in a more refined form; there is nothing new in it. It is still a Bill to sell Westrail freight. My contribution to the second reading debate made it very clear what I would require before I supported that Bill, and that has been delivered to my satisfaction - although there has been some movement both on my part and the Government's part. Despite the elapse of three or four months, the Opposition has yet to place amendments on the Notice Paper, which it could have done in case the Bill went through and members opposite wanted to improve the legislation. I am still not aware of any proposals that have been put forward to give the Independents an alternative.

Something must happen to improve Westrail. I have had phone calls today from two Westrail employees who both accept categorically that Westrail is going backwards. Something has to change. Its debt is increasing, its network is deteriorating and there is the threat of national competition policy, which will decimate what remains of Westrail. Discharging this Bill would mean failing to face the issues. There may be different solutions to the one that I have arrived at with the Government, but I have not seen it put forward or articulated by anyone opposing this Bill. The matter needs to be dealt with. By discharging this Bill we would be putting our heads in the sand, we would be denying that a real problem exists and we would be talking only about abstract issues. The people who want to discharge this Bill have over the past week attacked me personally in the mid-west and in the goldfields, and in the Perth media, but not once have they dealt with the issues. We need to get on with this debate and deal with the issues. To discharge the Bill would be to not face reality.

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance	Hon N.D. Griffiths	Hon J.A. Scott	Travers
Hon J.A. Cowdell	Hon Tom Helm	Hon Christine Sharp	Hon Giz Watson
Hon E.R.J. Dermer	Hon Ljiljana Ravlich	Hon Tom Stephens	Hon Ken
Hon G.T. Giffard			Hon Bob Thomas (<i>Teller</i>)

Noes (17)

Hon M.J. Criddle	Hon Helen Hodgson	Hon M.D. Nixon	Hon W.N. Stretch
Hon Dexter Davies	Hon Norm Kelly	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon B.M. Scott	Hon Muriel Patterson
Hon Max Evans	Hon N.F. Moore	Hon Greg Smith	(<i>Teller</i>)
Hon Peter Foss	Hon Mark Nevill		

Pairs

Hon Cheryl Davenport	Hon Ray Halligan
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Question thus negatived.

Statement by the President

THE PRESIDENT (Hon George Cash): Before the commencement of the House today, a member asked me what the situation would be if the motion to discharge a Bill - in this case, this Bill - were carried. A motion to discharge is a procedural motion and if the question had been carried the Bill would not have appeared on tomorrow's Notice Paper or subsequent Notice Papers until such time as it had been restored after the giving of notice to the House. It could have been restored.

The other point that was made was that the motion did not allow for a rerun of the second reading debate because the vote on the second reading had already occurred. The House had made its decision. There was very limited scope within which to comment on the issues to be raised.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Murray Criddle (Minister for Transport) in charge of the Bill.

Hon M.J. CRIDDLE: I move -

That new clauses 70 and 75 be considered before clause 1.

These clauses need to be considered by the Legislative Assembly as requested amendments and until such time as the Assembly agrees to the request, a number of other clauses cannot be considered. The clauses deal with a transfer of the existing appropriation from providing for the Director General of Transport to be the rail access regulator to allowing an independent rail access regulator to be put in place. It is based on the model of the Western Australian Independent Gas Pipelines Access Regulator, an office established under the Gas Pipelines Access (Western Australia) Act 1998. The clauses would also provide for the functions to be carried out - that is, the use of staff, consultants, government staff and facilities - by that regulator.

Point of Order

Hon KIM CHANCE: I do not have a problem with the process outlined by the minister, but in looking at the two clauses, it seems that we are considering making a requested amendment to the Legislative Assembly, something which may be beyond the power of the Legislative Council. I acknowledge that these are only requested amendments, but my understanding is that even in respect of a requested amendment the same limitations apply, albeit modified to some degree, to the Legislative Council's power in matters concerning appropriations. Those limitations apply in respect of requested amendments and to amendments of a more decisive nature. As I understand it, the limitations of the Legislative Council in this matter are that if there is a simple shifting sideways of an appropriation which is already in place, there is no problem. However, if the requested amendments for an additional appropriation would cause a sum of money which exceeds the current appropriations to be expended, those requested amendments would be beyond the power of the Legislative Council.

The CHAIRMAN: I thank Hon Kim Chance for his comments, but his point of order pertains to a motion he is anticipating and not to the motion currently before the Chair; that is, to consider new clauses 70 and 75 before clause 1. We will no doubt consider the point with the next motion.

Hon KIM CHANCE: I understand that, but I thought it was appropriate to raise the issue at this stage. I was seeking from the Chair a ruling on whether it is proper for the Council to debate this matter as a Committee of the Whole before the question has been resolved.

The CHAIRMAN: I am willing to consider this matter further.

Debate Resumed

Hon M.J. CRIDDLE: We are merely requesting a transfer of the present appropriation to the new regulator. I do not see any request for a new appropriation, only a transfer of appropriation.

Hon LJILJANNA RAVLICH: Will there be any additional appropriations with the proposed establishment of a new regulator? Are we, in fact, speaking of a dollar-for-dollar equal sum?

Hon M.J. Criddle: That is what I said.

Hon LJILJANNA RAVLICH: Has the minister done the costings to show that there will be no additional expenditure in the establishment of the Western Australian Independent Rail Access Regulator and the office of that regulator? If that is the case, I would like the minister to table the relevant document to demonstrate to the Chamber that it is an absolute like-for-like transfer and that no additional moneys will be involved. I would accept nothing less under the circumstances because it is a fundamental question. The minister has made a claim and I ask him to table that claim.

Point of Order

Hon N.F. MOORE: As I understood Mr Chairman's comments a moment ago, we are dealing with a procedural motion to deal with some clauses ahead of another clause. The member is now debating whether the subsequent amendments are worthy of support. I suggest we deal with the procedural motion now and deal with the rest later.

Debate Resumed

Question put and passed.

Hon M.J. CRIDDLE: I move -

That the Assembly be requested to make the following amendments -

New clause 70

Page 36, after line 25 — To insert the following clause 70 —

“

70. Part 3 Division 1 replaced

Part 3 Division 1 is repealed and the following Division is inserted instead —

“ **Division 1 — Office of Western Australian Independent Rail Access Regulator**

13. Western Australian Independent Rail Access Regulator

- (1) An office of the Western Australian Independent Rail Access Regulator is established.
- (2) The Regulator is to be appointed by the Governor.
- (3) The office of Regulator is not an office in the Public Service and is not to be included in the Senior Executive Service provided for by the *Public Sector Management Act 1994*.
- (4) The Regulator is to be the chief employee under the *Public Sector Management Act 1994* of the entity that includes the Regulator while it is a public sector body under that Act.

14. Appointment of Regulator

- (1) When there is a vacancy or impending vacancy in the office of Regulator, the Minister is required to —
 - (a) inform the Commissioner of that vacancy or impending vacancy; and
 - (b) request the Commissioner to act under this section to enable the filling of that vacancy or impending vacancy.
- (2) On receiving the request, the Commissioner is to invite the Minister to inform the Commissioner of any matters that the Minister wishes the Commissioner to take into account in nominating a person or persons suitable for appointment to the office of Regulator.
- (3) The Commissioner is to notify the vacancy or impending vacancy in such manner as the Commissioner thinks sufficient to enable suitably qualified persons to apply for appointment.
- (4) The Commissioner is to cause applicants to be examined, but nothing in this section requires the examination of all applicants.
- (5) To assist in the examination of applicants, the Commissioner is to form a selection panel that is to be chaired by the Director General of Transport and is to include at least 2 other persons chosen by the Commissioner.
- (6) The Commissioner may seek advice from such sources as the Commissioner considers relevant and may invite such other persons as the Commissioner thinks fit to assist him or her to decide on the person or persons suitable for appointment to the office of Regulator, and any person so invited may sit on the selection panel when it is examining applicants and may take part in the deliberations of the Commissioner on the matter.
- (7) If the Commissioner decides on a person or persons suitable for appointment to the office of Regulator, the Commissioner is to nominate that person or those persons and forward to the Minister the name or names of the person or persons nominated, together with full particulars of the qualifications of that person or those persons.
- (8) If the Minister accepts the person, or one of the persons, nominated by the Commissioner, the Minister is to recommend to the Governor that the person accepted be appointed.
- (9) If the Minister rejects the person, or both or all of the persons, nominated by the Commissioner, the Minister may request the nomination of another person by the Commissioner and is to deal with any further nomination as if it were made under subsection (7).
- (10) If the Commissioner does not nominate any person suitable for appointment or a nomination or further nomination by the Commissioner is rejected, the Minister —
 - (a) may recommend to the Governor that —

- (i) in the absence of a nomination by the Commissioner, a named person; or
- (ii) a named person other than a person nominated by the Commissioner,

as the case requires, be appointed to the office of Regulator; and

- (b) is to cause notice of the making of that recommendation, together with the reasons for recommending the named person, to be published in the *Gazette* as soon as practicable.

- (11) In this section —

“**Commissioner**” means the Commissioner for Public Sector Standards under the *Public Sector Management Act 1994*;

“**Director General of Transport**” means the Director General of Transport under the *Transport Co-ordination Act 1966*.

15. Term of office

The Regulator is to be appointed for a term of office of not less than 3 years and not more than 5 years and is, on the expiration of a term of office, eligible for reappointment.

16. Resignation

- (1) The Regulator may resign from office by a signed notice of resignation addressed to the Minister.
- (2) A resignation takes effect on the day on which notice is received by the Minister or on a later day specified in the notice.

17. Suspension of Regulator

- (1) If the Governor is satisfied that the Regulator —
 - (a) is physically or mentally incapable of performing the functions of office;
 - (b) has shown incompetence or neglect in performing those functions; or
 - (c) has been guilty of misbehaviour,
 the Governor may suspend the Regulator from office.
- (2) In subsection (1)(c) —

“**misbehaviour**” includes conduct that renders the Regulator unfit to hold office as Regulator whether or not the conduct relates to any function of the office.

18. Removal of Regulator

- (1) After being suspended from office under section 17 the Regulator is entitled to be restored to office unless —
 - (a) a statement of the grounds of suspension is laid before each House of Parliament during the first 7 sitting days of that House following the suspension; and
 - (b) each House of Parliament, during the session in which the statement is so laid, and within 30 days of it being so laid, passes an address praying for the removal of the Regulator from office.
- (2) If the Regulator —
 - (a) is suspended from office under section 17; and
 - (b) is not restored to office under subsection (1),
 the office of Regulator becomes vacant.

19. Remuneration and conditions of office

- (1) The remuneration and allowances and, subject to this Part, the other conditions of office of the Regulator are to be determined by the Governor.

- (2) Subsection (1) has effect subject to the *Salaries and Allowances Act 1975* if that Act applies to the Regulator.
- (3) The remuneration and allowances and conditions of office of the Regulator must not be varied while the Regulator is in office so as to become less favourable to the Regulator.

19A. Oath of office

- (1) Before beginning to perform the functions of office, the Regulator is to take an oath or make an affirmation that he or she will perform those functions faithfully and impartially.
- (2) The oath or affirmation is to be administered by a Judge.

19B. Acting Regulator

- (1) The Governor may appoint a person to act in the office of Regulator under this section and a person so appointed has, while so acting, all the functions of the Regulator.
- (2) A person appointed under subsection (1) may act in the office of the Regulator —
 - (a) if the Regulator is temporarily unable to perform official duties;
 - (b) if the Regulator is suspended from office under section 17;
 - (c) if the office of the Regulator is temporarily vacant; or
 - (d) in relation to a particular matter, if the Regulator is disqualified from acting in relation to that matter.
- (3) Subject to this Part, the terms and conditions of appointment of the person appointed under subsection (1) are to be as determined from time to time by the Governor.
- (4) A person acting under subsection (1) for the reason mentioned in subsection (2)(d) may perform functions of the Regulator in relation to the matter for which he or she is appointed even though the Regulator is at the same time performing other functions of the office.
- (5) An act or omission of a person acting under subsection (1) is not to be questioned on the ground that the occasion for his or her acting had not arisen or had ceased. ”.

New clause 75

Page 39, after line 18 — To insert the following clause —

“

75. Part 3 Divisions 3 to 5 inserted

After Part 3 Division 2 the following Divisions are inserted —

“

Division 3 — Staff and consultants

23A. Staff

Public service officers are to be appointed or made available under Part 3 of the *Public Sector Management Act 1994* to enable the Regulator to perform his or her functions.

23B. Consultants

The Regulator may engage persons under contracts for services to provide such professional, technical or other assistance as the Regulator considers necessary for the performance of his or her functions.

23C. Use of government staff and facilities

- (1) The Regulator may, by arrangement with the relevant employer, make use, either full-time or part-time, of the services of any officer or employee —
 - (a) in the Public Service;
 - (b) in a State agency or instrumentality; or
 - (c) otherwise in the service of the Crown in right of the State, other than an officer or employee of a party to an access agreement.

- (2) The Regulator may, by arrangement with the department, agency or instrumentality, make use of any facilities of —
 - (a) a department of the Public Service; or
 - (b) a State agency or instrumentality,
 that is not a party to an access agreement.
- (3) An arrangement under subsection (1) is to provide, without limiting its other provisions, that while the Regulator is making use of the services of an officer or employee —
 - (a) the Regulator has authority to control and supervise the officer to the exclusion of any person who would normally have any such authority; and
 - (b) the salary and allowances of the officer are to be paid out of moneys available to the Regulator for that purpose.
- (4) Subject to subsection (3), an arrangement under subsection (1) or (2) is to be made on such terms as are agreed to by the parties to the arrangement.

Division 4 — Financial provisions

23D. Bank account

- (1) The Regulator is to have an account at a bank approved by the Treasurer.
- (2) The account is to be called the “Western Australian Independent Rail Access Regulator Account”.
- (3) The account is to be —
 - (a) credited with all funds received by, made available to, or payable to the Regulator, including moneys appropriated by Parliament; and
 - (b) charged with all expenditure incurred under this Part to enable the functions of the Regulator to be performed, including the remuneration and allowances referred to in section 19.

23E. Borrowing from Treasurer

The Regulator may borrow from the Treasurer such amounts as the Treasurer approves and on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes.

23F. Application of *Financial Administration and Audit Act 1985*

- (1) The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Regulator and the Regulator's operations.
- (2) Despite subsection (1), any requirement under the Treasurer's Instructions (issued under section 58 of the *Financial Administration and Audit Act 1985*) that the Regulator prepare performance indicators is to be limited to the Regulator's management functions (including financial management).
- (3) Despite subsection (1), section 42 of the *Financial Administration and Audit Act 1985* does not apply in respect of the Regulator, but the expenditure that may be incurred under this Part in any one financial year is limited to the amount specified by the Minister under this subsection for that year.

Division 5 — General

23G. Immunity

- (1) No personal liability attaches to —
 - (a) the Regulator;
 - (b) a person acting under section 19B;

- (c) a delegate of the Regulator; or
 - (d) a person acting under the direction or authority of the Regulator,
- for an act or omission in good faith in the performance, or purported performance, of official functions.
- (2) A liability that would, but for subsection (1), lie against a person, lies instead against the Crown. ”.

Points of Order

Hon KIM CHANCE: I want to point out a couple of fairly simple issues. This is not a particularly complicated matter. I refer to the original proposal. I say "proposal" rather than "Bill", because we are dealing with legislation which is in place and with changes which will be made as a result not of the Bill specifically but of the amendments on the Supplementary Notice Paper. In the current proposition, the regulator of the rail system will be the Director General of Transport, an already established office. In the amendments in the Supplementary Notice Paper, we have the establishment of a new and independent regulator. I understand the minister's point. He is saying that there is already provision for a regulator and that this is a simple shifting sideways of the role. He is right in that. However, viewed in the context of whether this is an issue which requires an appropriation, I do not believe the minister is right. Certainly, that has not been proved. I suppose it is entirely a coincidence, but had events evolved differently - I had expected this debate to take place after question time - I intended to ask the minister if he would point to the difference between the current budget appropriation for the operation of the regulatory functions under the rail access legislation and the estimates of the costs for the appropriation required for the proposed new office of regulator.

It is my claim that the new office of regulator will require an appropriation. I do not believe that one can simply say that because the function has merely shifted sideways, so has the matter of appropriation, because the Director General of Transport is an already established office. The office of regulator will be a newly established office, which will presumably require office accommodation, staff, vehicles and utilities. Indeed, the regulator will probably have to be paid as well. All of these are appropriations in the ordinary annual functions of government. That is beyond the power of this Chamber.

Hon PETER FOSS: Before this question is raised by Hon Kim Chance, he must first establish his proposition that it is not possible for this Chamber to request an amendment. The reason that we must request an amendment is that it is not within the power of this Chamber to make the amendment, and until such time as that amendment is agreed to by the lower House, there is no amendment. In fact, it is merely a message attached to the Bill sent to the lower House. The consequence is that if the message is not agreed to, the Bill is not agreed to. Therefore, it is really a conditional agreement to the passage of the Bill; it is not something that we can do. I understand that the procedure referred to by the Minister for Transport has been adopted because it is beyond the power of this Chamber to make the amendment. Therefore, it must request that amendment because it may be a charge upon the people. Until such time as the amendment is agreed to by the lower House, there is no amendment. It is no more than a message from one House to the other, and the conditional approval of the Bill is being sent from one House to the other. I think the questions being asked by Hon Ljiljanna Ravlich and Hon Kim Chance are premised on a ruling that there cannot be any suggestion of an appropriation, whereas what the Minister for Transport is doing is not an appropriation.

Hon TOM STEPHENS: Members may recall a couple of occasions in the past three years when amendments concerning government legislation have been proposed by the Opposition in an endeavour to entertain some of the concepts that are now being entertained by the Minister for Transport in this legislation. The Opposition specifically approached the Table with a view to sending a message of an identical nature to that which is currently proposed by the Minister for Transport; that is, a message would be sent to the other place to request an amendment that was not within the jurisdiction of this Chamber to move. The advice of the Table was clear; that is, such a request was beyond the capacity of this Chamber. Mr Chairman, I hope that in your consideration of these points that are being made, you will take into account that the Opposition found itself in an identical situation in earlier legislation being considered by this Chamber.

Hon N.F. Moore: Can you give me one example?

Hon TOM STEPHENS: Yes. From memory, there were two examples. One occurred during the labour relations debate of May 1997, and the other was during the native title legislation, the date of which momentarily escapes me, although it should not. I think it was towards the end of 1998.

Hon Peter Foss: Was it an amendment?

Hon TOM STEPHENS: It was proposed amendments which we could not put forward and which we proposed instead to advance by a motion such as that which is now before the Chamber; that is, to send a message to the lower House. We found ourselves trapped in a situation in which we were advised that it was beyond the scope of the Chamber to entertain such a motion requesting the other House to do that which we would have liked it to do.

Hon Peter Foss: Is that because you needed a message?

Hon TOM STEPHENS: It was because the message requesting that an appropriation be dealt with in such a way was considered by the Table to be beyond the capacity of this Chamber. Therefore, in considering these matters, Mr Chairman, I want you to take on board the situation in which the Opposition found itself recently.

Hon KIM CHANCE: I thank the Attorney General for his advice. The short answer to the question asked by the Attorney General is that I do not know, and that is why I asked the question in the first place. I do not know whether the power of this Chamber is limited in the manner I have described. However, another question is involved as well. Perhaps it is a question which, as the Attorney General suggests, should be answered after the first question has been satisfied. The next question is: If there is a limitation on the powers of this Chamber in respect of a requested amendment involving cost or appropriation which exceeds the appropriation already in the budget for that purpose, does the Chamber not have to satisfy itself that the Government has provided evidence that there is no additional cost? Two separate questions arise here: First, a definition of the power of the Chamber in respect of a requested amendment; and, secondly, whether that power is altered by an appropriation established to be \$1 beyond the appropriation already provided for that function. That is a matter about which we need to be clear, because we are not trying to answer one question; we are trying to answer two questions, and they need to be handled consecutively, otherwise we will not get anywhere.

[Questions without notice taken.]

Ruling by the Chairman

The CHAIRMAN (Hon J.A. Cowdell): Hon Kim Chance raised a point of order about the applicability of section 46(4) of the Constitution Act Amendment Act. Members will be aware, zealous as they are of the powers of this Chamber, that the subsection states -

- (4) The Legislative Council may at any stage return to the Legislative Assembly any Bill which the Legislative Council may not amend, requesting by message the omission or amendment of any item or provision therein: provided that any such request does not increase any proposed charge or burden on the people. The Legislative Assembly, may if it thinks fit, make such omissions or amendments, with or without modifications.

Hon Kim Chance put forward a case that the motion before the Chair required increased appropriations and his argument was that: Rather than a government authority acting as regulator, a new regulator would be set up; the new independent regulator would require additional appropriation; there was a difference in cost; and it was not just a matter of shifting functions or expenses sideways but of increasing appropriations. In response, the minister assured the Chamber that a transfer, rather than an increase in appropriations, was proposed. I am not prepared to rule out the motion; that is, the request to the Assembly, on the basis that additional appropriations may be required. It is a matter of conjecture and there are different views within the Chamber. The Assembly may reject any request from this Chamber because it is deemed beyond the competence of the Council; however, on the basis of the arguments that were presented on this point of order, I rule the motion to be in order and that it may be further debated and considered.

Points of Order

Hon KIM CHANCE: Subsequent to the Chairman's ruling I ask a question that revolves around proposed new clause 75 on page 21 of the Supplementary Notice Paper, under the heading "23D. Bank Account". This new clause is part of one of the amendments the Chamber has been asked to send to the other place. Proposed section 23D(3)(a) of proposed new clause 75 specifically refers to the regulator receiving "moneys appropriated by Parliament". The legislation these amendments will replace - Part III, division 1 of the Government Railways (Access) Act - has no reference to appropriations and I ask that the Chairman consider that in line with his ruling.

Hon MARK NEVILL: The member is disputing your decision, Mr Chairman. He should make an objection in writing or accept the ruling you have made.

The CHAIRMAN: I am not considering it formally in that respect. I do not consider that the further point Hon Kim Chance has made is conclusive evidence of an increase in appropriation and I am not prepared to revise my ruling on that basis.

Hon KIM CHANCE: New clauses 70 and 75 deal with an alternative means of operating the role of regulator. Although I have referred to the source of the current legislation in debate on another matter, there is no indication in the Supplementary Notice Paper of where part 3 division 1 comes from. We are dealing with a proposal to amend a piece of legislation. Most people would imagine that we are dealing with a motion to amend the Rail Freight System Bill 1999, but if one looks at that Bill one sees there is no part 3 division 1. What does this amendment refer to? I happen to know because I looked at the Government Railways (Access) Act 1998 and saw that the part 3 division 1 replaced refers to that Act, but we cannot know that from the Supplementary Notice Paper. I claim that this motion is out of order.

The CHAIRMAN: I rule the motion to be in order. It may be in the form of a message to the Assembly which may not be easily decipherable, but that is a matter for the Assembly. I do not uphold the point of order.

Hon KEN TRAVERS: I accept your clarification of the amendment and the ruling you gave, Mr Chairman.

Hon BARRY HOUSE: Surely it is up to members opposite either to move dissent from your ruling, Mr Chairman, or to proceed with the debate in progress.

The CHAIRMAN: I understand this to be a separate point of order and I will consider it as such.

Hon KEN TRAVERS: I was attempting to make it clear that I was not disputing your ruling, Mr Chairman.

Hon Barry House: That is what I was saying - you either dissent or sit down.

Several members interjected.

The CHAIRMAN: Order! The Chair will consider what Hon Ken Travers has to say. The Chair must consider whether his comments are on a different point of order or are speculating on a previous ruling, but in the first instance we must hear what this is about before a point of order can be raised against the point of order.

Hon KEN TRAVERS: We have been advised on numerous occasions in this Chamber that amendments need to be within the scope of the Bill. I seek your ruling on whether these amendments - which I accept are requested amendments - fall within the scope of the Bill, Mr Chairman. The Opposition believes that what is being sought by these amendments should have occurred when we previously debated the Government Railways (Access) Bill. I seek your ruling based on previous rulings in this Chamber about the ability to bring in amendments which are outside the scope of the Bill after the second reading and whether these amendments fall within the scope of the Bill.

The CHAIRMAN: I rule that there is no point of order because there are no amendments before the Chamber. We are considering a message to the Assembly asking it to do something; we are not considering amendments which may or may not be beyond the scope of the Bill. Therefore, there is no point of order.

Hon TOM STEPHENS: For the sake of clarity: In the committee stage of a debate about any matter, could the committee entertain any motion to consider sending a request to the other House on matters that were entirely outside the policy and scope of a Bill before the Chamber? Is that the implication of the proposition before us?

The CHAIRMAN: I do not believe it is appropriate for the Chair to speculate on what range of motions this Chamber can consider sending to the Assembly nor do I propose to do so at this stage.

Hon TOM STEPHENS: I am seeking your advice, Mr Chairman. You can appreciate that the Chamber would be loath to move to dissent from the Chairman's ruling, but in a situation where rulings are unfolding that may have implications such as I have just outlined -

The CHAIRMAN: The Leader of the Opposition may wish so.

Hon TOM STEPHENS: I am seeking your advice as to how at this point one tests whether the Chamber really wants to permanently position itself in a situation where motions on matters outside the policy and scope of the Bill, but requesting amendments from the other House, could become standard procedure in the Chamber.

The CHAIRMAN: There is no point of order. The Leader of the Opposition may invite speculation from the Chair, but this is not appropriate.

Debate Resumed

Question put and a division taken with the following result -

Ayes (18)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans
Hon Peter Foss

Hon Ray Halligan
Hon Helen Hodgson
Hon Barry House
Hon Norm Kelly
Hon Murray Montgomery

Hon N.F. Moore
Hon Mark Nevill
Hon M.D. Nixon
Hon Simon O'Brien
Hon B.M. Scott

Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson
(Teller)

Noes (12)

Hon Kim Chance
Hon J.A. Cowdell
Hon E.R.J. Dermer

Hon G.T. Giffard
Hon Tom Helm
Hon Ljiljanna Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens

Hon Ken Travers
Hon Giz Watson
Hon Bob Thomas (Teller)

Pairs

Hon Greg Smith

Hon N.D. Griffiths

Question thus passed.

Resolution reported.

Report

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [5.52 pm]: I move -

That the report be adopted.

HON KIM CHANCE (Agricultural) [5.52 pm]: The report should not be adopted. I raised an issue during debate in the Committee of the Whole House. We have received a ruling, by which I am bound, from the Chairman of Committees relating to one matter. I believe the decision which the Chairman of Committees made on that issue can be reconsidered at this point, because we are now dealing with a potential resolution of the House.

The PRESIDENT: Order! I am sorry, what did Hon Kim Chance say could be reconsidered? At the moment we are considering whether the report should be adopted.

Hon KIM CHANCE: Exactly. It is my belief that the report should not be adopted. I have a number of reasons for saying that. However, the one which is the clearest is the manner in which the amendments referred to in the motion - that is, new clauses 70 and 75, but I am referring specifically to new clause 70, found on page 11 of Supplementary Notice Paper 10-3 - do not identify which Act is being amended. The heading of new clause 70 is simply designated as "Part 3 Division 1 replaced". When one goes back to the schedule in the Supplementary Notice Paper, one finds the only Act to which this could refer is the Financial Administration and Audit Act 1985. I believe the Chairman made a proper decision in the committee stage that that was not a point of order. At this point, when we are constituted as the House, it is another point. The Legislative Assembly cannot be expected to know what we are talking about if we send this message to it.

The PRESIDENT: Hon Kim Chance is opposing the motion that the report be adopted, but in opposing it, I think he has raised a point of order.

Hon KIM CHANCE: Yes.

The PRESIDENT: Therefore, I am replying to his point of order, not whether the report should be adopted. The question of the identity of the Act to which Hon Kim Chance referred, as I understand, was raised during the committee stage, and the Chairman ruled on that matter. The other place will decide for itself what it does and does not believe, or what it understands by the message that is sent to it, and it will act accordingly. The question at the moment is that the report, as agreed to in committee, be adopted. That apparently is a request in respect of two new clauses. Nothing improper is being done. It does not breach the standing orders, and it is a matter for the Legislative Assembly to decide whether it agrees or disagrees with the proposition which is being invited of it.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [5.56 pm]: I also oppose the adoption of this report. As the House will well and truly appreciate, I do so because the adoption of it is yet again another step down the path of this Parliament making an unacceptable move towards the privatisation of Westrail. Members will appreciate that the Labor Opposition is consistently expressing its opposition to the progress of this legislation through each of its stages. We opposed it during the second reading debate. We opposed it by urging the House to discharge the Bill from the Notice Paper. We took some points of order during the committee stage, again as expressions of our opposition to the way the bill has been crafted. There is an argument for this House to take on board the point being made by Hon Kim Chance that the report should not be adopted, because in my view it is - and this should be the view of the House - technically deficient.

Hon Barry House: You are reflecting on the Chair.

Hon TOM STEPHENS: No, there is no reflection on the Chair. I am reflecting upon the competence of the majority that represents the committee of this House. Those members have effectively passed through the committee stage of this House a report that should not be adopted. One reason it should not be adopted is that it contains deficient directives to the Legislative Assembly about what Acts this House is requesting should be amended as a result of the message. That is a deficient message. It does not behove this House to send messages to the Legislative Assembly and for that House to be required to make up its mind about what we meant. If this House means something, surely it should make clear and specific what it is requesting of the other House, rather than leaving it to guess. As Hon Kim Chance has clearly pointed out, that House is now left with the task of guessing.

Hon Barry House: There has been a ruling, and your comments are reflecting on the Chair.

The PRESIDENT: Order! I heard someone interject that the Leader of the Opposition's comments were reflecting on the Chair. So far, the Leader of the Opposition's comments have not reflected on the Chair.

Hon Mark Nevill: His comments have not reflected on the Bill.

The PRESIDENT: The Leader of the Opposition has opposed the adoption of the report, as I understand, because, first, it would further the process of a Bill - that is legitimate - and, secondly, because the request is not in a form acceptable to the Leader of the Opposition. It was acceptable to the Committee; it may not be acceptable to the Leader of the Opposition. There is nothing wrong with that. Therefore, there is no reflection on the Chair.

Hon TOM STEPHENS: My view - it is a view that is still open to this House - is that this House should take heed of what the Opposition is saying. It should not adopt this report. It should not, through the adoption of this report, send a message to the Assembly, because by adopting this report, legislation that is unacceptable to the people of Western Australia will be progressed. The adoption of this report will ensure that additional components are incorporated into this legislation by virtue of decisions being invited of the other House, which will not in any way make this legislation acceptable to the people of Western Australia.

Sitting suspended from 6.00 to 7.30 pm

Hon TOM STEPHENS: Before dinner I made two points: First, we do not want to see the adoption of this report because we are utterly opposed to the progress of this legislation as it leads to the privatisation of Westrail's freight operations; and, secondly, we believe that the report which has come from the Committee does not produce a sensible message to the Legislative Assembly. I am surprised that the Australian Democrats would join with the Government in advancing this legislation.

Hon Norm Kelly: We do not oppose an independent regulator for the access regime.

Hon TOM STEPHENS: I hope that the Australian Democrats recognise that there is now an opportunity to vote against the adoption of this report. There is a chance to kill the advance of this legislation altogether and, through the defeat of this motion to adopt the report, there may be a chance to prevent the passage of legislation that would lead to the privatisation of Westrail. There are additional reasons for my commending the defeat of this motion to the House. I draw to the attention of members the attitude which has been adopted by not only this House but also the other House to requests which are similar in nature to this one. Members should keep in mind the decision that was made by this House when it adopted a decision of the Committee of the Whole which dealt with the native title legislation. Members should recall the precedent that was established in that committee determination which was then adopted by the House in the Committee's report; that is, that because it was outside the policy and scope of a Bill, it was not considered possible for this House to deal with amendments to the native title legislation which dealt with the intertidal zone, for instance. Members should keep in mind that this House refused to place within its report to the other place an amendment that would have required the Commissioner for Equal Opportunity to deliver reports on the native title legislation because it was considered to be outside the policy and scope of the Bill. Members should also keep in mind that when this House sent a message to the Legislative Assembly about an amendment to the native title legislation, which gave the Attorney General the opportunity to consider requests for financial assistance for people who chose to appear before the National Native Title Tribunal, the Legislative Assembly considered that to be an unacceptable request by virtue of section 46A of the Constitution Acts Amendment Act. As a House, we should anticipate quickly what the other House will do about the Bill if this message is sent to it. If that House is to be consistent, it will have only one reply for this Chamber.

Hon N.F. Moore: Let us try it.

Hon TOM STEPHENS: The Government may try, but I am putting to the House a reason that this report should not be adopted; that is, on the basis of the decisions that have been made by that House in reference to its understanding of the Constitution of this State and the rights of that House and of this House, it has already told us what to think and what to expect when it gets a requested amendment of this sort. The answer is no. I have an additional reason: The Labor Opposition has spent seven years in opposition in this House exploring questions like the policy and scope of legislation. Members of the Opposition have found themselves somewhat frustrated over that experience as we have considered exploring issues within legislation that have been viewed by the House and, on occasions, the Committee of the Whole to be outside the policy and scope of the Bill. As a result, the amendments that we would have liked the House to entertain and to have adopted in reports and in messages to the other place have been outside the policy and scope of the Bill. Now I speak as the Leader of the Opposition, who anticipates that within 12 months I may be leading a Government in this Chamber. In the face of what has gone through this Chamber in seven years, it has consistently said that requested amendments which are outside the policy and scope of the Bill will not be adopted by virtue of reports in this place. Now, for the first time, this Government, which is on the skids and about to lose office, is tearing up the rule book under which we have operated in this House for the past seven years.

Point of Order

Hon PETER FOSS: The Leader of the Opposition is casting aspersions on rulings given. We certainly have not torn up any rules. I understand some rulings have been given, but if the Leader of the Opposition did not like the ruling that was given, he should have objected to it and referred it to the President. He cannot start querying that resolution by accusing us.

Hon TOM STEPHENS: On the same point of order, I am not casting a reflection on previous rulings of the Chair.

The PRESIDENT: I have already worked that out; the Leader of the Opposition does not have to tell me that. The comments of the Leader of the Opposition were not reflecting on the rulings made in this House earlier this evening. He is talking in general terms about rulings. There was no great reflection on the House in the manner in which the statement was made. Members are entitled to make some robust comments, but I will be the first to tell the Leader of the Opposition that he is breaching the Standing Orders if he reflects on a specific ruling. We are debating whether the report should be adopted; we are not debating a general question about scope and relevancy.

Debate Resumed

Hon TOM STEPHENS: I am drawing my comments to a conclusion. The Labor Opposition has been convinced, and we hope that the House is convinced, that this report should not be adopted because it is inconsistent to adopt it in the light of the decisions that have been made by this House over seven years. The adoption of this report embarks this House upon a new point of departure in the way in which it can deal in the future with legislation, requested amendments and the policy and scope of legislation. If this report is adopted, never again can this Chamber entertain the notion that items outside the policy and scope of a Bill will not be considered by the House or the Committee of the Whole.

Hon Peter Foss: That is nonsense!

Hon TOM STEPHENS: That is not nonsense. This decision will not put the Attorney General's party, when it goes into opposition as it will in the near future, in the same position we have been in. The Government will be able to do what we have not been able to do as an Opposition. It will be able to demand of the other House, by tacking on to legislation, amendments that have nothing to do with the policy and scope of the legislation.

The PRESIDENT: We are not debating the general question of scope and relevance. The Leader of the Opposition is continuing to fall back into error by believing this is a debate on the scope of the Bill. He will remember that the Standing

Orders Committee considered, at his request, the question of scope some months ago. This is not the time to discuss that issue. The question is that the report be adopted.

Points of Order

Hon TOM STEPHENS: For the sake of the record, I take a point of order which I ask you to rule on, Mr President; that is, whether this House can adopt the report in view of my concerns that the adoption flies in the face of all the previous rulings of the Chairs of this place on the issue of policy and scope of a Bill. I refer to the rulings that have been made in this House, ironically, in regard to the Government Railways (Access) Bill.

The PRESIDENT: The current question before the Chair is that the report be adopted. I believe every member understands that and there is no argument about it. The question then is: What does the report say? My understanding is that the report we are adopting is that the Legislative Council requests the Legislative Assembly to agree to some requested amendments. However, the question that the committee is recommending to be adopted is that the Legislative Council requests the Legislative Assembly to agree with certain things. When the Legislative Assembly gets the message, it will look at it and will consider whether it should agree to the Legislative Council's request. It is for the Legislative Assembly to consider whether the request breaches its standing orders. The Leader of the Opposition is falling into error when he talks about the scope of the Bill and when he refers to earlier incidents in this House when, in committee, certain amendments proposed to be moved were ruled out because they were beyond the scope of the Bill and were directly related to committee amendments that were being discussed at that stage. Every ruling I have had reason to read confirms that when an amendment is beyond the scope of a Bill, it is not able to be moved in committee unless there is a suspension of standing orders and the House agrees to that course. That has been the situation on some occasions. The Leader of the Opposition has fallen into error in his argument on the scope of the Bill.

Hon TOM STEPHENS: Mr President, I very much appreciate your comments. For the sake of the record, it is important to obtain a ruling on whether it is possible and consistent with our standing orders to adopt a report which contains a request for an amendment to be made in the other House which is outside the policy and scope of the Bill, keeping in mind that previously -

The PRESIDENT: If the Leader of the Opposition holds his point of order at that, I will be able to rule on it.

Hon TOM STEPHENS: Mr President, I want to make the point of order against this backdrop: In my capacity as Leader of the Opposition handling previous legislation, I have been specifically refused the opportunity to move a motion in this place seeking amendments in the other place that, it was argued, were outside the policy and scope of the Bill.

The PRESIDENT: I understand the point of order and, as it is an important issue that must be settled, I intend to leave the Chair to give me an opportunity to read previous rulings and return with a considered ruling.

Hon PETER FOSS: The opportunity for this point of order to be raised has passed. The opportunity to say whether the Committee was competent to recommend the adoption of the report was raised before the Committee and ruled on by the Chair. If the Leader of the Opposition disagreed with that ruling, at that stage he should have followed the procedure in the standing orders and objected. My point of order is that the time for that objection has passed.

The PRESIDENT: Order! There is no need to speak to the same point of order as the question on which the Leader of the Opposition is seeking a ruling is properly before the House. I do not believe it to be a ruling that was previously dealt with in committee. I think I did refer to that earlier on.

Does Hon Mark Nevill have a point of order before I leave the Chair?

Hon MARK NEVILL: My point of order was similar to that of Hon Peter Foss. The Leader of the Opposition is clearly reflecting on a ruling that was made in committee. That was the time to raise an objection, to put it in writing and to have it dealt with by the President. The Leader of the Opposition is traversing matters that were dealt with in committee when he had the opportunity then to have you, Mr President, return to the Chair to deal with the matter. He is having a second bite of the cherry when he did not have the intestinal fortitude to challenge the Chairman of the Committee at the time.

The PRESIDENT: If that is Hon Mark Nevill's view, I will certainly take that into account. However, it is proper that I consider the matter. Can the Leader of the Opposition give me a specific example of a previous ruling having been breached?

Hon TOM STEPHENS: These situations in which the Opposition found itself include rulings which occurred on the floor of the House.

The PRESIDENT: However, it must be in respect of a requested amendment.

Hon TOM STEPHENS: Yes. One of those proposed requested amendments dealt with a proposal to send a message from this House to the other House requiring the Commissioner for Equal Opportunity to provide a report dealing with new clause 7.46 of the Native Title (State Provisions) Bill.

The PRESIDENT: Does the Leader of the Opposition have a *Hansard* reference or something to which I can refer?

Hon TOM STEPHENS: That particular requested amendment did not proceed on the advice of the Table. I have a copy of the proposed amendment with me. I also refer to written advice received in reference to the native title Bill that any amendment that would affect the intent and application of the Bills would be outside the scope of the legislation.

The PRESIDENT: Is this in respect of a requested amendment?

Hon TOM STEPHENS: Yes, that was written advice that dealt with the issue of proposing requested amendments for the other House. Finally, I appreciate that the point I made in reference to the requested amendment that failed in the other House is, as you say, up to the other House. I seek your ruling on those two points.

The PRESIDENT: It may assist me if the Leader of the Opposition could give me the document he is holding in his hand. Members, I intend to leave the Chair to consider the issues raised. Does Hon Norm Kelly have a point of order?

Hon NORM KELLY: I did not want to enter the debate at this stage but, as you, Mr President, have indicated you will leave the Chair, I seek some direction on a matter raised prior to the suspension. Hon Kim Chance made some points about the clauses to be sent to the other place, the higher appropriation that would be required etc. I ask you, Mr President, to consider what the minister said in debate on the access Bill in 1998 - and I will give you the *Hansard* reference - when he pointed out that it would be very expensive to go to an independent regulator rather than stay with the existing regime. In light of what was said prior to the suspension, I went through that debate and I ask you to consider whether there is a point of order.

The PRESIDENT: I will leave the Chair until the ringing of the bells.

Sitting suspended from 7.50 to 8.47 pm

Rulings by the President

The PRESIDENT: The first point of order on which I am about to rule was raised by the Leader of the Opposition. The question I was asked to decide was whether a departure from the previous practices of the House has occurred in relation to the Bill under consideration in a particular respect; namely, whether a request made of the Legislative Assembly to amend a Bill must first clear the hurdle of this House's application of the rules of relevancy as applied to proposed amendments.

I need to make one preliminary observation: A request may be made of the Assembly only when, by operation of section 46 of the Constitution Acts Amendment Act 1899, this House is incapable of making the amendment in its own right. There are two such categories in section 46; namely, the imposition of a tax and the appropriation of the consolidated fund. In all aspects, as subsection (5) enacts, the powers of the House in relation to Bills are "co-equal". The question in this case is whether the proposed amendments are those which may be made by the Assembly alone. It is agreed that they involve appropriations, an issue with which I will deal when considering the second issue raised by Hon Norm Kelly.

Having considered the material provided by the Leader of the Opposition and the recorded precedents of the House, I remain of the view that nothing has occurred in the Committee of the Whole on this Bill which departs from previous authority. In the examples given, the advice provided refers to "amendments" not "requests" or "requested amendments", and I would expect the officers of this House to draw a clear distinction between the two. By contrast, this House did request an amendment of the Assembly on the Native Title (State Provisions) Bill 1999 on the motion of the Leader of the Opposition. The Assembly declined to make the amendment.

In the absence of precedent that supports the Leader of the Opposition's argument that the point has been taken and ruled on previously, I am unable to sustain the point of order.

Hon Norm Kelly asked me to reconsider the matter of the appropriation inherent in the requested amendments. Section 46(3) prevents this House from amending any Bill so as to "increase any proposed charge or burden on the people". Subsection (3) is in effect conditioned on the premise that there must be, in the Bill, a financial proposal which means that the Bill must have originated in the Assembly by reason of subsection (1). The expression "burden or charge" is not a reference to taxation but to an appropriation. Were the proposal now before the House to have been moved as an amendment, it would seem to have breached this provision. That is not the case and subsection (3) is not in issue.

Subsection (4), which deals with the making of requests, specifically denies the House to request an amendment that would increase an appropriation. However, there are three facets to an "appropriation". An appropriation may increase, decrease, or reassign moneys already appropriated to another destination - that is, an "alteration in the incidence" of the appropriation.

As I understand matters, the requested amendments would have the third effect; that is, the balance of the unspent appropriation for this financial year would go from the regulator acting under the 1998 access Act to the regulator constituted were the Assembly to agree to this amendment. It may well be the case that one officer will cost the State more than the other, but that is not the issue here.

Unless there is compelling evidence, rather than argument or speculation, to the effect that an increase is contained in this measure, it may proceed.

Point of Order

Hon TOM STEPHENS: I rise on a point of order; it is a matter, I fear, of privilege. I want to provide the Minister for Transport with the opportunity to assure me that my fears that there has been a breach of privilege are misplaced. During the committee stage of the consideration of this Bill that led to the adoption of this report the Minister for Transport told the House -

We are merely requesting a transfer of the present appropriation . . .

The PRESIDENT: Order! The Leader of the Opposition has risen on a point of order, and I am more than happy for him to do that; however, he seems now to be presenting an argument in respect of a point of privilege. I am happy to continue to hear the member, but I can only assume that he may be about to move a question of privilege.

Hon TOM STEPHENS: I felt that it would be wrong of me to move straight to the formation of a Select Committee of Privilege on the comments made by the Minister for Transport in case he has an explanation that would be sufficient to discourage my moving such a motion. If that were the case, I thought this would be the fairer way to handle this situation. If I do not have the opportunity to go down that path, I am happy to move the motion to form a privilege committee.

The PRESIDENT: It may be that this can be dealt with by way of a point of explanation. However, if the Leader of the Opposition is alleging that a minister has misled the House - misleading the House is not sufficient in respect of a matter of privilege; it must be wilfully or deliberately misleading the House; there must be an intent to mislead or deceive - he will need to formally move a motion in respect to that. For the time being, for the convenience of the House and on the basis that no-one will object, the Leader of the Opposition can continue and the minister may give some point of explanation before we get into a full-scale debate on privilege.

Hon TOM STEPHENS: The minister said -

We are merely requesting a transfer of the present appropriation to the new regulator. I do not see any request for a new appropriation, only a transfer of appropriation.

The PRESIDENT: This is when?

Hon TOM STEPHENS: At 4.40 pm today in answer to questions asked of the Minister for Transport, and I make that available to the minister. Also during question time the minister said to the House in answer to a question asked by Hon Kim Chance -

The current budget allowance will be transferred for that requirement. As we go into other appropriations, obviously figures will change. However, that is the present situation.

I am indebted to Hon Norm Kelly for a section of *Hansard* dated 27 October 1998, page 2632, which deals with the same issue - that is, the cost of establishing an independent regulator. The Minister for Transport, partly in response to questions that I asked, states -

There will be an additional budget expense associated with establishing such an office. If an office of regulator general is set up at some time in the future, I would be happy to support the transfer of the functions . . . It would be a very expensive item for just one requirement.

I will read that in context.

The PRESIDENT: Order! I am trying to deal with this by way of a point of explanation. The Leader of the Opposition, I think, has provided the Minister for Transport with sufficient information - he can ask for more if he needs it.

Hon TOM STEPHENS: To make clear what was said on that day I will read from a preceding paragraph -

All those processes might be detrimental to the decision-making process. If the code is subject to parliamentary disallowance, it would mean that a change to the code would need to undergo a public review . . . Members could argue that changes can be implemented while they are tabled in Parliament. However, the reality is that changes involving, for example, commercial decisions on capital investment will be unlikely to proceed until all required approvals are obtained . . .

The third recommendation of the standing committee pertains to the establishment of a separate office of regulator. We must examine in a responsible, pragmatic way the most cost-effective way to establish the office. Firstly, the role of regulator comprises monitoring, enforcement and administrative functions for the implementation of the code. Secondly, and more specifically, the regulator is responsible for compliance of all access-related requirements. Thirdly, he or she is also to review the code for effectiveness, establish a panel of arbiters . . .

That puts the context against which the final comments are made by the Minister for Transport. I do not want to move necessarily for a matter of privilege. However, it occurs to me and I hope it would occur to the House that there could be no more serious breach of privilege of the House if the minister in his effort to advance the progress of the Bill that would once again come before the House was to have misled the Chairman of Committees into making a ruling based on the claim that there were no additional costs. There could be no more serious breach of privilege than if the minister, when speaking earlier today, were cognisant of the fact that he told the House on 27 October 1998 that such additional cost would have to be appropriated. In particular I am keen to obtain -

The PRESIDENT: Order! Hon Tom Stephens is going too fast. I do not even have a question before the Chair. I am trying to help the House out, so to speak, before there is any need to launch a full scale debate into an issue. Hon Tom Stephens raised the point. If the Minister for Transport wishes, it is only proper I give him an opportunity to reply. I do this only to try to save the time of the House. The Leader of the Opposition has also prefaced some of his remarks by saying that he feared that the minister may have done something, but he has implied that he hopes it is not the case. If it is, he wants to move for a committee of privilege; if it is not the case, he will sit down, so to speak.

Hon TOM STEPHENS: The Minister for Transport said he was dealing only with a shift sideways in his reply today during

Committee when previously he was referring to additional appropriations that would be necessary, which would have the impact described on 27 October. I would appreciate hearing the minister's response.

The PRESIDENT: Order! The minister may make some comment.

Hon M.J. CRIDDLE: I can remember the instance. In the above paragraph I was talking about the Director General of the Department of Transport as the access regulator.

The PRESIDENT: Was that on 27 October 1998?

Hon M.J. CRIDDLE: Yes. The next paragraph reads -

The setting up of the independent office of the regulator general is a decision that will need to be considered from a whole-of-government perspective. There will be an additional budget expense associated with establishing such an office. If an office of regulator general is set up some time in the future, I would be happy to support the transfer of the functions of the rail access regulator from the Department of Transport to that office.

Hon Norm Kelly: Keep reading.

Hon M.J. CRIDDLE: To continue -

That would just pass over as a matter of course. However, in the meantime it is hard to justify the time and expense involved in setting up a separate rail regulator office given the nature of the functions involved. It would be a very expensive item for just one requirement.

I am saying that the whole exercise would be very expensive.

Hon Norm Kelly: I asked that you continue because it appeared you were legitimately referring to the regulator general, but then you refined it to the office of a rail regulator.

The PRESIDENT: Order! I must let the minister make his reply. After that, the Leader of the Opposition, who raised the issue, can decide what he wants to do.

Hon N.D. Griffiths: He quoted the last paragraph.

The PRESIDENT: Order! I am trying to deal with the matter in a reasonable way. Members should let the minister make his comments and then we will worry about the next step.

Hon M.J. CRIDDLE: The point I was trying to make is that we have a series of regulators and that was what the debate was about at the time. A number of different issues will arise when it becomes a very expensive exercise. The point that must be made here is that we are asking for a transfer of funds out of this appropriation, which will be the same level as that delivered with the Director General of Transport as the regulator. We will appoint an independent regulator and we will not spend any more funds. That is what I have been saying and that is what I will continue to say.

[Continued on p 5560.]

SELECT COMMITTEE OF PRIVILEGE

Motion

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.00 pm]: I move without notice -

That a Select Committee of Privilege consisting of five members, any three of whom constitute a quorum, be appointed to inquire into and report on whether there has been a breach of the privileges of the House by the Minister for Transport in his handling of questions asked about the cost of establishing a separate rail regulator office.

Point of Order

Hon PETER FOSS: I am very concerned that this continuing line by the Leader of the Opposition is an abuse of the processes of this House. If there is a breach of privilege in this House, it is the conduct of the Leader of the Opposition. I am very concerned this motion is in itself a breach of privilege.

The PRESIDENT: Order! There is no need to rise on the same point of order. The Attorney General may not have been in the House the other day when we dealt with the issue of abuse of process. I made certain comments in respect of that. It is up to the Chair to decide whether the actions of a member constitute an abuse of the process of the House. So far, the question has been put to the House whether the report should be adopted. Various comments have been made about that and I have been asked to make a ruling on issues that have been raised.

The Leader of the Opposition has now raised a matter of privilege. He has also spent some time giving a general overview of the situation and the minister has replied. It seems to me that the question of whether a committee should be established should not take very long to settle because most of the facts appear to be on the table. I cannot prevent a member raising a point of privilege. The House will exercise its mind in due course and decide whether there is any credence to the issue. At this stage I rule that the Leader of the Opposition is not abusing the processes of the House.

Debate Resumed

Hon TOM STEPHENS: It is a -

Hon N.F. Moore: He is deliberately wasting the time of the House.

The PRESIDENT: Order! I want to get on with the matter, otherwise, when we commence tomorrow, it will be the first item that comes up.

Hon TOM STEPHENS: By virtue of being a matter of privilege, this matter is raised in a serious way by the Opposition.

Hon N.F. Moore: It is frivolous and you know it. You deliberately took no notice of what he said.

Point of Order

Hon BARRY HOUSE: I contend that the Leader of the Opposition's motion is out of order because we already have a question before the Chair which should be resolved before the House entertains any further motions.

The PRESIDENT: Order! The question before the Chair prior to the raising of this issue was that the report be adopted. However, the member has taken the first opportunity to raise his argument in respect of privilege. He is entitled to move it.

Debate Resumed

Hon TOM STEPHENS: I am mindful of the fact that the House has before it a serious issue; that is, in the efforts to secure the progress of this legislation through the committee stage of this House, the Committee and importantly, the Chairman of Committees, had to be persuaded whether the motion to send a message to the other place was in fact a message that dealt with additional appropriation.

It was in response to questions germane to that issue that the Minister for Transport advised the Committee of the Whole and subsequently the House during question time, only a few moments later, in these ways -

We are merely requesting a transfer of the present appropriation to the new regulator.

I do not see any request for a new appropriation; only a transfer of appropriation. In the subsequent advice given to the House in question time -

The current budget allowance will be transferred for that requirement. As we go into other appropriations, obviously figures will change. However, that is the present situation.

I believe it is important for the House to establish a privileges committee to ascertain whether those comments were made knowingly and wilfully by the minister to be incorrect.

Hon Simon O'Brien: Hang on! Those comments are not correct; nor do they mislead the House. You have not established that yet.

Hon TOM STEPHENS: In another debate in this place on 27 October 1998, at page 2632 of *Hansard*, about a Labor Party proposal that a separate regulator's office be established, the minister said that it would be a very expensive requirement for just one item and that it would be hard to justify. On the face of it, that appears to be sufficient grounds for this House to agree to the establishment of a Select Committee of Privilege to ascertain why the minister gave that answer on 27 October 1998 and a totally inconsistent answer today. The question of whether the minister did it wilfully or whether the earlier advice given to the House slipped his mind is moot. However, it is inconceivable that the minister does not have advice available to him to respond to this question.

We are dealing here with the State's Constitution; that is, the rights of the two Houses. The right of this House has been exercised on the basis of advice which this minister has given to the Chairman of Committees and which is inconsistent with the advice that he gave on 27 October 1998 in a similar debate. The Attorney General shakes his head. However, I have had the opportunity to canvass this issue candidly with a number of my colleagues, and we have all arrived at the same conclusion: That a prima facie case exists that the minister wilfully ignored the advice that must have been available to him about how to get around the answer he gave on 27 October 1998. When confronted with a direct question, he ignored the earlier answer he gave to the House. I also fear that the minister has today ignored what must be in his ministerial files; that is, departmental advice about how to proceed with this legislation. I find it inconceivable that a minister of the Crown, equipped with expertise from the Department of Transport and Crown Law officers, would not have been provided with advice that would make it plain to him -

The PRESIDENT: Order! That is not part of the argument. The argument is whether the minister has wilfully misled the House. The Leader of the Opposition is pointing to a number of documents that he says provide evidence that he has. The advice of his ministerial staff is not recorded in *Hansard*. That is a different issue.

Hon TOM STEPHENS: I will try to develop the argument better than I have, and I appreciate your assistance, Mr President.

My experience, briefly as a minister and prior to that as a parliamentary secretary, is that advice is provided by officers including, where appropriate, Crown Law officers, about how to proceed with various issues. I find it inconceivable that

the minister has not been given advice, both in writing and verbally, about the correct situation in respect of this section of the Constitution. It is inconceivable to me, and I hope the House also finds it inconceivable, that the minister could answer the question asked by Hon Kim Chance - in the light of what he said on 27 October 1998 and what must be in the briefing notes and the advice he has received from the Department of Transport and the Crown Solicitor's Office -

Hon Peter Foss: If it is set up, how much will it cost?

Hon N.D. Griffiths: According to the minister, it will be a very expensive item if it is just one requirement.

Several members interjected.

The PRESIDENT: Order! The Leader of the Opposition is trying to wind up. I will give members a couple of options: First, they can interject as much as they like and it will take about five minutes for this place to turn into a circus; or, second, they can have me chair the House and allow members to be heard. If they choose the second option, they should not interject. That is the choice.

Hon TOM STEPHENS: I feel at somewhat of a disadvantage in the presentation of my argument. I might not be as well equipped as the Attorney General to present the legal argument in support of my case. To the extent that I have done my argument a disservice, I hope that members on this side who share my view will rise in support of the motion.

Hon N.F. Moore: This is a time-wasting exercise and you know it.

Hon TOM STEPHENS: I am serious about this motion.

Hon N.F. Moore: You are not; you are pathetic.

Hon TOM STEPHENS: In 12 months I could be sitting on the other side of the Chamber.

Hon Ken Travers: You will be.

Hon N.F. Moore: Heaven help Western Australians if that happens! The sooner they realise that, the better off they will be.

Hon TOM STEPHENS: Members of the current Government will not tolerate this level of deception from me, nor will I tolerate it from a minister of the Crown now.

Hon N.F. Moore: You have already sat over here as part of the most corrupt Government in history.

Withdrawal of Remark

Hon BOB THOMAS: I take offence.

Several members interjected.

The PRESIDENT: Order! Tell me what was said.

Hon BOB THOMAS: The Leader of the House said that Hon Tom Stephens was a member of the most corrupt Government in the history of this State.

The PRESIDENT: The member takes offence. Under the standing orders, if a member takes offence, I am obliged to ask the member who uttered the words to withdraw.

Hon N.F. MOORE: It was not a reflection on him personally. The fact that Hon Bob Thomas was a member of that Government as well -

Several members interjected.

The PRESIDENT: Order! If members do not wish to take notice of me, let there be a free-for-all. I am asking the Leader of the House to withdraw the words.

Hon N.F. MOORE: I seek your advice.

Hon Tom Stephens: You are defying the Chair.

Hon N.F. MOORE: I am happy to withdraw if I am required to do so. I reflected on the previous Government, not on Hon Bob Thomas. If I was seen to be reflecting on him personally, of course I will withdraw. I was reflecting on Hon Tom Stephens and the Government of which he was a member.

The PRESIDENT: The leader knows the standing orders. I am asking that he withdraw those words.

Hon N.F. MOORE: I withdraw.

Debate Resumed

Hon TOM STEPHENS: I ask of members of this House no more than that which I expect them to demand of me and that which was demanded when I was a member of the Lawrence Labor Government. When I was a member of that Government, I knew what was required of me; that is, to tell the truth in this House. That was a requirement of this House.

The additional reason why I believe this motion should be successful and that a Select Committee of Privilege should be established is that the committee could determine whether the minister has been briefed - as I fear and believe he has been - in reference to the cost associated with this measure. How is it conceivable that the minister has given the answers that he has today, when juxtaposed with his speech of 27 October 1998, and done anything other than deliberately and wilfully attempt to mislead the House? It is absolutely imperative that this House not allow itself to adopt a report that has been through a corruption of the processes that have been arrived at and agreed to. How can we allow ourselves to accept a situation where the Chairman of Committees is wilfully and deliberately misled by a minister of the crown in reference to whether this matter involved an appropriation?

Hon N.F. Moore interjected.

Hon TOM STEPHENS: This is no reflection on the Chairman of Committees. Members should keep in mind what the Chairman said: That on the basis of what the minister has told him during the committee phase, he has no option other than to accept the veracity of the minister's claim. The Chairman had no other option. I am not reflecting on the decision of the Chairman of Committees. The risk for this House and the privileges of this House come from this: That over there sits a minister who has, in my belief, wilfully misled the Chairman of Committees, and effectively led to the Chairman's ruling being made in reference to the appropriations that this particular legislation requires. I base my conclusions on the consideration of *Hansard* dated 27 October 1998.

Hon M.J. Criddle interjected.

Hon TOM STEPHENS: If the Minister for Transport thinks that has nothing to do with it -

Hon Peter Foss: It is because you are thick.

Hon TOM STEPHENS: The Leader of the Opposition, Dr Gallop, has discussed this matter with my colleagues and we see the evidence before us.

Hon Peter Foss: Then you must all be thick.

Hon TOM STEPHENS: The member is an extraordinarily irritating Attorney General. I wish that he would wrap his braces around his throat and do us all a favour.

The PRESIDENT: I asked the Leader of the House to withdraw certain words and now the Leader of the Opposition is heading exactly the same way. The member is not meant to be making personal reflections on members. Will the member wind up what he is saying, because I am now looking at the standing order that deals with repetition.

Hon TOM STEPHENS: I draw the President's attention to the fact that I was responding to the Attorney General.

The PRESIDENT: I am aware of that.

Hon TOM STEPHENS: What is good enough for the goose is good enough for the gander.

The PRESIDENT: That is why I said earlier that if members want to turn this House into a circus I will say nothing about interjections and members can then see whether they can cope with the House.

Hon TOM STEPHENS: I will draw my remarks to a conclusion. This is an honest response to what is before the House and is available for all of us to read, and I refer to the *Hansard* of 27 October 1998 and the uncorrected *Hansard* of 28 March 2000, today, at 4.40 pm and 5.10 pm. In addition, a number of us in this place understand how the processes of government work and it is inconceivable that a Minister for Transport has been so poorly advised as to allow him to advise the House honestly and truthfully that this matter does not involve additional appropriations. I call on the House to establish a privilege committee to assess the veracity of the minister's claims and whether in fact he has deliberately and wilfully misled the House, as I suspect he has.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [9.25 pm]: I will not speak for long. What I said earlier was that we were looking at a transfer of appropriations from the Director General of Transport as the present regulator to a new, independent regulator. That is all that is required. We are not asking for extra funds. If we carry on at this rate there will certainly not be any requirement for any extra funds, because we will never get around to setting up an independent regulator. That is all we require and all I said we would do. What the other reference to *Hansard* has got to do with what I said I do not know. We will not expend more funds than we have available at present. That is all that is to be said.

HON KIM CHANCE (Agricultural) [9.26 pm]: I thank the minister for bringing more clarity to the argument.

Hon Peter Foss: It was always there.

Hon KIM CHANCE: It is not and, frankly, the Attorney General's interjections in this matter have been less than helpful to anyone.

Hon Bob Thomas interjected.

The PRESIDENT: If Hon Bob Thomas does not want his colleague to be heard, I will ask him to sit down.

Hon KIM CHANCE: The Chairman of Committees was required to make a ruling on a point of order that I raised this evening when I sought a ruling on whether the issues we have before us were beyond the power of the House. It had

seemed to me from my necessarily limited understanding of the Constitution Acts Amendment Act, section 46, that the power of this House in respect of moving a requested amendment was limited. I felt that the limit applied to any matter which might pertain to an increase in appropriations which could result from the amendment. The Chairman of Committees made his ruling properly and on the assurance of the Minister for Transport that there was no increase, and the minister has just made that clear. I note that the minister's point of view in this matter has been consistent. What members on this side found, particularly Hon Norm Kelly when he did some research on his files on this matter, is that the Minister for Transport's comments on the matter, as recorded in *Hansard* for 27 October 1998 on page 2632, were directly on point. The Leader of the Opposition rose to give the minister an opportunity to provide evidence that this was not the case. The Chairman of Committees was put in a position where he had to accept, in the absence of proof to the contrary, that what the minister had said regarding the parallel and sideways shift of the cost of the establishment of the office of the regulator did not increase the appropriations. The Chairman of Committees quite properly made his ruling on that matter. It seems to us, in the absence of evidence to the contrary, that page 2632 of the 1998 *Hansard* gives evidence to the contrary. The minister said on that occasion when referring specifically to a rail regulator office -

However, in the meantime it is hard to justify the time and expense involved in setting up a separate rail regulator office given the nature of the functions involved. It would be a very expensive item for just one requirement.

Hon N.F. Moore: That is a general comment.

Hon KIM CHANCE: It is not a general comment. One cannot make a general comment about a separate rail regulator office. It is a very specific matter.

Hon N.F. Moore: We are talking about an amendment to the Bill now for the rest of this financial year.

Hon KIM CHANCE: All I am saying is that the advice the minister gave us concerning a separate rail regulator office is that it would be a very expensive item.

Hon Peter Foss: You do know he can only transfer this year's appropriation. He cannot transfer next year's, which has not been appropriated.

Hon KIM CHANCE: The Attorney General needs to read section 46 of the Constitution Acts Amendment Act. In doing so, he would find that is not time specific, limited to one budget or the next. It is written in absolute terms. I am amazed that the Attorney General does not realise that.

Hon Peter Foss: What he said was that all we are requesting is a transfer of the appropriation. There is only one appropriation at the moment. If you want another appropriation, you must agree to it.

Hon KIM CHANCE: We support the establishment of a separate rail regulator office and that does not come into the matter, but it has always been of concern to the Opposition that that was always to involve an additional appropriation requirement. We do not necessarily object to that, but when we raised the point of order at the committee stage of the Bill that it seemed as though this was something that may be beyond the power, we had an assurance that that was not the case. You must understand, Mr President, confronted with this evidence in which the same minister has indicated that the establishment of a separate rail regulator office would involve additional expense, we are concerned we have not been told the same story twice. It is as simple as that. One cannot read this sentence without reading it in the context of the rest of the argument. In the rest of the argument, save the first half of this particular paragraph, and I understand what the minister was saying there, the two preceding paragraphs are very clearly on point. We are talking clearly about a regulator who does nothing but determine the code and regulation requirements. We are specifically talking about a rail regulator.

In the second to last paragraph, the paragraph from which most quotes have been taken, there seems to be a drifting off to the question of the independent office of regulator general, which could be another matter. I can see what the minister is saying there; he is saying that it would be expensive to set that up. However, he goes on to say -

... the time and expense involved in setting up a separate rail regulator office given the nature of the functions involved. It would be a very expensive item for just one requirement.

There is an inconsistency there at the very least which needs to be answered.

HON NORM KELLY (East Metropolitan) [9.33 pm]: I shall be seeking some direction from you, Mr President, on how section 46(4) of the Constitution Acts Amendment Act is interpreted. Like Hon Kim Chance, I have read this section which refers to any proposed charge or burden on the people. The question then becomes, is it relative simply to this financial year or whether any proposed charge or burden can relate to burdens that may be imposed in future years. That is probably at the heart of the matter. From what I have heard from the Minister for Transport, he is saying that there will be no increased burden for this financial year. By that definition, it fits in with the Constitution Acts Amendment Act.

The PRESIDENT: If the member is asking me to comment, he will recall that in my ruling I said in part that as I understand the requested amendments would have the third effect, and I spoke of three facets; that is, the balance of the unspent appropriation for this financial year would go from the regulator acting under the 1998 access Act to the regulator constituted were the Assembly to agree to this amendment. That is what we are discussing in respect of the question at the moment.

Hon NORM KELLY: Thank you, Mr President. You went on to say that it may be the case that one officer will cost the State more than the other. That is not the issue here, so we are not arguing that there may be an increased cost.

The PRESIDENT: Without wishing to enter the debate but trying to answer the member's question, the Treasurer's advance account is the legal entity that can be used if additional funds are required for a department for its operations from time to time. It must get the approval of the House, but there are avenues available to get additional funding should it be agreed by the Parliament.

Hon NORM KELLY: Thank you, Mr President. In determining my position on this motion, I need to look at the future impact of the motion being successful. I do not necessarily believe in the establishment of a Select Committee of Privilege on this matter although future debate on this Bill could be illuminating. Comparing the minister's comments in 1998 with his comments today, there is a clear divergence. What was said in 1998 was convenient at the time to achieve a purpose. What is said today by the minister is convenient at this time to achieve a completely different purpose. The minister may have manipulated some of the facts to achieve a purpose.

In the light of having this message sent to the other place and in the expectation that those clauses would be incorporated into the Bill, we will have the opportunity at a future date to further investigate the impact of these clauses. It would be quite proper for the Committee of the Whole to fully investigate these clauses and what burdens may be placed on the people of this State in future years. Our task is to be made aware of that. If the minister is properly informed, he will be able to provide the answers as to the increased costs in future years. That debate is yet to be had and is not relevant to this motion. We are talking about the wilful misleading of the House.

I disagree with the minister and the Attorney General's interjections about how one reads this extract of the *Hansard* of 1998. I believe the minister talked about the regulator general and narrowed down his remarks specifically to an office of a regulator purely for rail. However, there is a big difference between wilfully misleading and misleading this place. There is probably an argument that he has misled this House this afternoon but that is something that should be fully inquired into when we get more information about the establishment of this independent office of the regulator.

HON LJILJANNA RAVLICH (East Metropolitan) [9.40 pm]: I support the motion to establish a Select Committee of Privilege to determine whether the Minister for Transport breached the privileges of this House in his comments on the cost of establishing an office of the rail regulator. This comes at an opportune time. In this place we often rely on, first, the minister having access to information and, secondly, the information being accurately conveyed to members on this side of the Chamber so that we can make judgments on behalf of the people we represent on matters of public importance. All too often members on this side of the House are treated like mushrooms and denied access to information.

While the minister sat at the Table tonight, he said that the establishment of the regulator's office would be cost neutral. Surely he must have done some analysis of that matter, which has been around for some time. Amendments have been on the Supplementary Notice Paper for at least a couple of months. In putting those amendments on the Supplementary Notice Paper, the minister or his agencies must have carried out some analysis of the implications of the establishment of this office. However, this minister simply says, "Trust me. I do not have to provide you with information on the financial details." Frankly, I am appalled at the number of times I have heard ministers say that they are under no obligation to provide information to this place or to table key financial documents on critical legislation. I am appalled.

The PRESIDENT: Order! I am becoming appalled by the fact that the member is not speaking to the motion. This motion will establish a committee to consider whether a breach of privilege has occurred, not to consider what ministers do in general.

Hon LJILJANNA RAVLICH: This motion is timely because in a meaningful way it will be an acid test. The committee of privilege could call for the information we sought earlier in order to determine whether the information is accessible and available. If the information is available and the minister chose not to provide it to the House, the committee of privilege should look into that matter as a priority.

In responding to comments made by the Leader of the Opposition, the minister claimed that he did not know what his comments in committee today - that is, that the new office will be cost neutral - had to do with comments he made on 27 October 1998. He said that he had no idea how what he said at the Table in committee today had anything to do with earlier comments. This goes to the heart of the issue. It is fundamental. He said in committee that it would be a cost-neutral exercise -

Hon M.J. Criddle: You're misleading the House now.

Hon LJILJANNA RAVLICH: No. We need to know whether the information provided by the minister today is technically accurate or whether the information provided on 27 October 1998 is correct. The minister clearly stated in 1998 that an additional budget expense would be associated with the establishment of the office. The minister cannot have it both ways. The Opposition is sick and tired of the minister wanting it both ways. It will either be cost neutral or not cost neutral. In other words, an increase or a decrease in costs will occur. The minister cannot have it both ways.

Point of Order

Hon M.J. CRIDDLE: We have heard this member already repeat herself about 10 times. If she has a point to make, she should make it.

The PRESIDENT: Standing orders are clear on tedious repetition. It does not require only the same member to make the same point repeatedly, as it is sufficient for a ruling that there has been a breach of orders if members who follow another member recite the same point.

Debate Resumed

Hon LJILJANNA RAVLICH: My point is that the minister has difficulty linking what he said in committee today about the establishment of this office being cost neutral to the comments he made on 27 October 1998. If he cannot make that link, he should not hold the office of minister. If one cannot make a connection between the two and -

Point of Order

Hon M.J. CRIDDLE: The member has already repeated the same point twice since I stood up last time.

The PRESIDENT: I am listening carefully to what is being said. Believe me, minister, I will raise the issue with the member as soon as I believe there has been unreasonable repetition. So that Hon Ljiljanna Ravlich is aware, I am very close to calling her on tedious repetition.

Debate Resumed

Hon LJILJANNA RAVLICH: The Opposition is keen to determine whether the minister has deliberately misled the House, or whether it was just an oversight on his behalf. I am pretty desperate to get access to information. Parliament cannot make the right judgments unless it has confidence that the information conveyed to members is technically accurate. Given the inconsistencies before us, I cannot make that determination; therefore, the establishment of a committee of privilege is very important. There are no two ways about it when inconsistent information is conveyed. The minister has failed to provide details of costing when requested by members on this side of the Chamber. He offers hollow rhetoric, and expects members to blindly follow him. Western Australians deserve much better than that; Parliament deserves better than that. The committee of privilege will get to the heart of the matter and establish the truth.

HON MARK NEVILL (Mining and Pastoral) [9.49 pm]: I am not convinced that the minister has willingly misled the House. When one reads the paragraph to which Hon Norm Kelly rightly referred, one can see that the minister's statements contain some imprecision. He talked about an independent office of the regulator general, which will take care of the regulation of water, rail, gas and electricity access. In the second part of the paragraph the minister goes off on a tangent. I read the debate, and while Hon Murray Criddle was speaking he received a number of interjections - two by Hon Norm Kelly and four by Hon Tom Helm - to which the minister's answers were imprecise. I give Hon Tom Helm credit - he was listening. When the minister says something imprecise it is up to members to raise that issue by interjection. No interjection was made. None of the members in this place is a precise speaker. The most precise speaker in this House was Hon Joe Berinson. He was head and shoulders above anyone else when it came to saying exactly what he meant.

Hon Peter Foss: He used careful wording.

Hon MARK NEVILL: Very careful. He was in a difficult situation and he handled himself brilliantly. Whether one thought he was right or wrong, he was precise and careful with his words. We cannot expect every member of this House to speak with such precision. The Minister for Transport is imprecise in that paragraph, but not to the extent he was misleading the House, and to suggest that he is willfully misleading the House is an abomination.

I did not speak on this Bill in 1998 because I did not agree with it. I did not think a Director General of Transport should be the regulator as that Bill set forth, nor did I think there should be a separate rail access coordinator. I have spoken on a number of other Bills in this House. There should be one regulator general for water, gas, electricity and rail access. I have been told by at least half a dozen government members that one member of the Government is stopping that - Colin Barnett.

The PRESIDENT: Order!

Hon MARK NEVILL: I apologise, Mr President, I am getting off the point. I support the concept of one regulator general for all those areas. I do not support the two clauses in this Bill that set up a separate rail regulator. However, in the absence of the Government bringing in a Bill to consolidate that, I am forced to go along with it. If members visit level 6 of the Governor Stirling Tower they will see it has an office for the gas access regulator and an office for the water regulator and the other half of the floor space is empty. I go there regularly because I have lodged two submissions, one on the Bunbury to Dampier pipeline and one on the goldfields gas pipeline. It will not cost the Government much to put the other regulator on that floor, and I guarantee that is where the office will go. That expanse of office space is empty.

Since the second reading speech this is the fourth stunt to delay this Bill. I am still waiting for an alternative policy or amendments to be put forward by the Opposition, and I suppose we will see another stunt after this. I am happy to sit here for as long as it takes to get to the end of this. I do not believe the minister has misled the House, and I am certainly sure that he has not wilfully misled the House.

Question put and negatived.

RAIL FREIGHT SYSTEM BILL 1999*Report*

Resumed from an earlier stage.

The PRESIDENT: The question now before the House is that the report be adopted.

Question put and a division taken with the following result -

Ayes (18)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans
Hon Peter Foss

Hon Ray Halligan
Hon Helen Hodgson
Hon Barry House
Hon Norm Kelly
Hon Murray Montgomery

Hon N.F. Moore
Hon Mark Nevill
Hon M.D. Nixon
Hon Simon O'Brien
Hon B.M. Scott

Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson
(Teller)

Noes (13)

Hon Kim Chance
Hon J.A. Cowdell
Hon E.R.J. Dermer
Hon G.T. Giffard

Hon N.D. Griffiths
Hon Tom Helm
Hon Ljiljanna Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens

Hon Ken Travers
Hon Giz Watson
Hon Bob Thomas (Teller)

Pair

Hon Greg Smith

Hon Cheryl Davenport

Question thus passed; and a message accordingly transmitted to the Assembly.

CONSUMER CREDIT (WESTERN AUSTRALIA) AMENDMENT BILL 1999

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) [9.57 pm]: I move -

That the Bill be now read a second time.

The Consumer Credit (Western Australia) Amendment Bill 1999 amends the appendix which is termed the Consumer Credit Code of the Consumer Credit (Western Australia) Act 1996. The Consumer Credit Code is a national scheme of uniform consumer credit laws that aims to ensure borrowers are provided with adequate information, at all stages of consumer credit transactions, to enable them to make informed choices and decisions. It applies to all consumer credit lending for personal, domestic or household purposes.

In 1993 all the Australian States and Territories entered into the Australian Uniform Credit Laws Agreement. The agreement provides that the Ministerial Council on Consumer Affairs has responsibility to develop and implement a cooperative, uniform, national legislative and administrative scheme to regulate the provision of consumer credit in Australia.

Uniformity of consumer credit law is achieved under clause 7 of the agreement. This clause provides that a party to the agreement may pass application of laws legislation which automatically adopts the Consumer Credit Code as in force from time to time in Queensland, or enact consistent legislation. The Western Australian Government has opted to enact consistent legislation. This amendment Bill has therefore been drafted to mirror the provisions of the Consumer Credit (Queensland) Amendment Bill 1998 to ensure that the same consumer credit laws apply in Western Australia as in all other Australian States and Territories.

The Consumer Credit (Queensland) Amendment Bill 1998 was the outcome of an extensive consultation process throughout Australia under the auspices of the Ministerial Council on Consumer Affairs. In September 1996 a call for submissions on amendments to the code was distributed nationally, on behalf of the ministerial council. In September 1997 the first draft Bill was released for consultation, and as a result of submissions from industry and consumer groups, changes were made. In January 1998 a second exposure draft was also released to stakeholders for comment.

As a result of this extensive period of consultation, approval to introduce an amendment Bill in Queensland was unanimously granted by members of the ministerial council. The amendment Bill before the House today therefore forms part of, and is integral to, the maintenance of the uniform national scheme. The amendment Bill contains two broad types of amendments. First, the Bill brings the special transitional regulations contained in the Consumer Credit Regulations 1996 into the code and makes them permanent. The special transitional regulations were promulgated to come into operation at the same time as the Consumer Credit Code. They were necessary to overcome practical implementation problems which emerged during the lead time between enactment in Queensland in 1994 and commencement across Australia on 1 November 1996. These problems were identified when legal advisers to credit providers and information technology specialists began the detailed work of drafting documents and manuals and designing software systems to achieve code compliance. Due to the limits on the power of the special transitional regulations, they have had to be renewed each year. These amendments will provide certainty and avoid the need for annual renewal.

Secondly, the Bill makes amendments to improve the operation of the code; for example, by eliminating ambiguities and dealing with practical problems which have come to light since the code commenced operation. The three most important amendments, apart from the amendments which replace the special transitional regulations, are -

clause 61, which removes unnecessary duplication and provides new flexibility in the serving and giving of notices to debtors and guarantors;

clauses 54 and 55, which remove credit advertising restrictions which currently prevent credit providers from including certain information which potential borrowers would find useful; and

clause 45, which clarifies that a credit provider's recoverable enforcement expenses include both internally and externally incurred expenses, but also give debtors and guarantors a specific right to challenge the reasonableness of any such expenses so charged.

The amendments in Western Australia will commence on a date fixed by proclamation to coincide with the proclamation date for amendments in other States and Territories. The national commencement date of the amendments is currently the subject of discussion between industry and the ministerial council. Due to the impending introduction of the Commonwealth Government's goods and services tax legislation and the need for industry to implement changes to its compliance systems, all States and Territories are likely to agree on a date in October this year for proclamation of the amendment Bill.

This Bill is not concerned with the fundamental policy issues underlying the Consumer Credit Code. These broader issues are currently the subject of a post implementation review, which also involves a review under national competition policy guidelines. However, by correcting the problems I have detailed above, this Bill will reduce the cost to credit providers of complying with the code, which will in turn have benefits for both business and consumers.

The consultation process for this Bill has been extensive over two years and has sought to achieve consensus. The Bill has the support of industry, consumer groups and government, and the approval of the Ministerial Council on Consumer Affairs. I commend the Bill to the House and, for the information of members, I table an explanatory memorandum.

[See paper No 821.]

Debate adjourned, on motion by Hon Bob Thomas.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.01 pm]: I move -

That the House do now adjourn.

Public Health System Complaints - Adjournment Debate

HON SIMON O'BRIEN (South Metropolitan) [10.02 pm] I think the approved management practice for dealing with complaints in our society today is that they are welcomed by management as a means of testing efficiency and improving service delivery in their organisations. That can be done by investigating complaints with a view to fixing problems to the satisfaction of the complainant and to ensure that such problems do not recur in the future.

It is also a desirable management practice, particularly in government authorities, that all complaints be investigated thoroughly and openly with a view to resolving them, so that further complaints can be approached in the confidence that the organisation has a culture that is responsive to the needs of clients.

However, I have come to the view that in certain sections of the public health system, a culture has arisen that views complaints in purely defensive terms; that is, every opportunity must be found to make sure the department or its servants are not found to be at fault. That is a counterproductive attitude which ultimately leads to more problems for the authorities involved than the simple resolution of the immediate complaint. I am sure that in every member's office there are records of complaints which have not been resolved to the satisfaction of what appear to be reasonable and fair-minded complainants who want a fair go. The public health culture needs to address this in the future.

In the case of Judith Park, a couple of concerns have not been addressed. Firstly, there was apparently a need for family intervention to precipitate action on the part of the health carers. Indeed, there is evidence that had that action not eventually been taken as a result of family intervention, Mrs Park would have died. There was a significant delay in her receiving the treatment she needed, to the point of her imminent death before that treatment was given, and we can infer from the substantial evidence available that the lack of timely treatment has contributed to a situation where she is now in an invalid state, worse than she otherwise would have been.

The other aspect relates to the failure of the treating team to communicate its thinking about interventions that would be offered or withheld during the period when death may have been imminent. I spoke about this last Thursday during the adjournment debate, and the question identified by the Park family as the essence of its problem is the tendency of health authorities to decide on the viability of whether a patient lives or dies without reference to that patient or their family.

I also reported that the Metropolitan Health Service Board is moving to address this problem by establishing a communication protocol. I encourage and congratulate it for doing that. In so doing, I note the contribution of Mr Mike Blake of the Metropolitan Health Service Board who has taken on the task of reviewing the Park case. He has treated the Parks with great consideration and dignity, and I acknowledge the very humane contribution by Mr Mike Blake the Director of Finance and Performance Management. However, the performance of other officers involved has been less than acceptable. I note that on 13 September the Minister for Health wrote to Mr Les Park in the following terms -

Thank you for your letter of 1 August 1999 outlining your wife's treatment she received at Royal Perth Hospital.

This matter has been extensively investigated by Royal Perth Hospital and the Office of Health Review and I am reassured that all the issues raised regarding your wife's treatment have been answered satisfactorily.

I do not believe that the minister was given full advice in that matter, and the evidence is contained in an internal letter from Dr Brian Dare the Head of Department, Risk Management, to Mr Mike Blake, dated 29 February 2000. In a classic case of Sir Humphrey Appleby speak, it is pointed out in part that -

Mr Park's intervention during Judith Park's stay in hospital contributed valuable care and knowledge of Mrs Park's medical, psychological and social needs to the medical and nursing staff.

Mr Park made timely communication with the staff and so initiated many meetings between the treating medical and nursing staff that assisted in the exchange of useful information for the management of her medical conditions.

Although I am not aware of any systematic examination of the impact on a patient's outcome by the intervention or interaction of a carer with the treating medical staff, it is clear that in Mr Park's case his timely involvement in her treatment, especially when she became acutely ill on 5th April 1998, may well have positively influenced her recovery, resulting in her return home.

That is an awfully long-winded and cagey way of acknowledging that if the Parks had not intervened with Mrs Park's case, she would have died. That evidence flies in the face of the evidence given to the Minister for Health when signing his letter dated 13 September. I am sure the minister will be keen to revisit that situation with his advisers with a view to asking about the quality of the advice that he has been given.

I close by pointing out to the House in summary that the Park family has gone through a great deal of unnecessary suffering because of the actions of some officials in the Health Department, firstly, in believing that they had the power to make life and death decisions without consulting the affected parties; and, secondly, in their attitude of covering tracks to defend at all costs any suggestion that people might have fouled up. Hopefully, these aspects of the management culture, which I believe are deficient, will now be tackled by the minister and I wish him well in doing that. I hope in doing so, he can now find an opportunity to exercise an act of grace to help make good Mrs Park's critical condition by providing assistance to her in the form of relief from fees that have been expended, assistance in mobility, assistance in home comfort - I am talking about a chair - and assistance with counselling which is needed to help restore Mrs Park's confidence in the public health system as she will require further assistance in the future. Those are reasonable requests, especially when one reflects on the treatment at the hands of the health carers who, as I said in my opening remarks last Thursday, generally work very well and are very dedicated in providing their valuable services to the community. The reputation of our public health system deserves to be complemented by a management culture which responds positively and responsibly to complaints by people, especially those in a distressed condition. I wish the Parks all the best in the future and I wish the minister the will to tackle this difficult cultural problem.

Robe River Iron Associates Iron Ore Mine - Adjournment Debate

HON TOM HELM (Mining and Pastoral) [10.12 pm]: I do not believe the House should adjourn until it takes note of one of the headlines in today's edition of *The West Australian* which states "\$1b iron ore mine approved". The subtitle states "Native title laws are workable, says operator". I remind the House that this announcement of an iron ore mine at West Angelas is a project of Robe River Iron Associates - or I should say North Ltd, a major owner of Robe River. I again remind the House about Robe River, which is not what could be called one of the soft mining companies in this State, and certainly not one with a reputation for giving away things easily. I hope this is the beginning of an example which will discourage our Premier from using the race card when he goes to the state election, which I assume is not too far away.

Hon Simon O'Brien: It is on Saturday.

Hon TOM HELM: It is on Saturday, okay?

I will quote from the newspaper article which drives home what the Labor Party has been saying about a number of matters that have been brought to our attention in recent weeks, particularly the interference by Kingstream in native title matters and evidence that people are working hard to see that the native title legislation before this House is made, not unworkable, but as hard to work as possible.

In spite of the aim of some people to make the native title legislation impossible to work with, Robe River through the mining house North Ltd said yesterday that it -

. . . is proof that Australia's much-criticised native title legislation is workable.

The article continues with Mr Knight, one of the spokespersons for North Ltd being quoted as saying -

"It was a long negotiation but . . . I don't think (the legislation) is unworkable," . . . "Native title is something we have become accustomed to in this industry, it's just another thing you have to do. We don't have a problem with it."

This comment must strike fear in the Premier as he enters election mode. He is waiting for an opportunity to use the race card and win another term on the Treasury bench. I advise members opposite and the Premier that it will not work this time. We have examples of Hamersley Iron and BHP working in a cooperative way with Aboriginal groups in the Pilbara to get

successful outcomes, outcomes which will be good for the State, the industry and the Aboriginal people who are most upset by iron ore mines or any kind of mines built in our State.

It is good for the House to note that this iron ore mine was announced by a developer whose repetition for trampling on people's rights, for being an anti-union iron ore miner and for shaking this State up is second to none. It will be a long time before we get back to what we had before. However, this mining company is able to see that in spite of all the rhetoric, the native title legislation is workable to people of goodwill and that if we try to work with it, we will get a good outcome for everybody.

"Managing Natural Resources in Rural Australia for a Sustainable Future" - Adjournment Debate

HON CHRISTINE SHARP (South West) [10.17 pm]: I will take a couple of minutes of the House's time to draw members' attention to an important document which is being circulated widely on behalf of the Federal Government of Australia. It is a discussion paper for developing a national policy. The paper is called "Managing Natural Resources in Rural Australia for a Sustainable Future". Members may not be aware that the arrival of the new year saw the end of a decade of land care and a very important change in an era of natural resource management. In Australia as a whole, and in Western Australia in particular, the land care effort has been an incredibly important part of the adjustment of agriculture to the requirements of ecological sustainability.

What next after the decade of land care? The answer is largely outlined in this paper which attempts to set out a long-term strategic framework of policy development for natural resource management in this State. Naturally the paper has some very important things to say, although generally speaking it is couched in the generalised motherhood terms which seem to be characteristic of papers of this nature. Nevertheless, woven into the motherhood terms one can see important statements such as "fundamental changes" are required to land management practices in order to make them sustainable, and there will be many areas which, despite fundamental changes, will not be able to be farmed viably in the future and may need to be removed from agricultural production. These are very important statements. However, I draw the attention of the House tonight in particular to the institutional framework proposed in this paper. It is essentially a regional proposal for natural resource management in Western Australia and Australia. It is a regional perspective that would create, in the words of the paper, "regional institutional structures". These same structures would attract block funding from the Federal Government to implement the objectives.

These are major proposals. Members will recognise that they are building on a trend that we have seen increasingly in regional land management in this State for some time. The Federal Government has had an increasing role in natural resource management - a role that in many ways has bypassed the regulatory role of the State Government. I am suggesting that this paper raises some very important issues about the fundamental roles of the State Government versus the Federal Government in relation to natural resource management and whether those roles are clearly and honestly spelt out in this paper. I believe they are not.

This also has very serious funding implications. If such regional institutional structures receive block funding from the Federal Government, this will further impoverish state government agencies that have responsibility for managing such issues. Many members, particularly rural members, will be aware of the extraordinary duplication in government effort that has occurred in the past, particularly with regard to funding. We have some weird and wonderful government arrangements whereby officers of state government departments may spend a couple of weeks every year applying to the Federal Government for funding to pay their own salaries. In addition, the funding programs they are applying to are also open to community organisations such as catchment groups, land conservation district committees and so on. We have the appalling situation of agency officers competing with community groups for the same federal dollar. That is most unfair to all stakeholders.

What is the role of this important policy statement within this Parliament? It appears that very few members have even noticed its production, although it is well known in Canberra and it is being actively discussed throughout regional Western Australia. Somehow this Parliament and the democratic accountability that is represented here has been bypassed in this process.

I encourage other members of this House who have an interest in natural resource management to become aware of the document and to think about some of the issues that I have raised and the many other issues in the paper. They should encourage open discussion of some of the very important constitutional implications of this regional approach and where this is going in the long term. It has the support of the party that I represent, because the Greens (WA) support the notion of bioregional government and catchment management because they are natural management units. We support the idea of regional and catchment institutions that the Federal Government has proposed. However, in the shorter term, we are concerned that without proper debate, and even constitutional reform, this will not be done in an open, frank and fully democratic and accountable way as proposed in this document. Therefore, we encourage all state managers to actively dialogue with the Federal Government to make sure that both sides are clear about their respective roles so their efforts are not duplicated. The Federal Government, the State Government, local governments and community and landcare groups should all work in synergy to tackle the huge issues facing sustainable natural resource management.

Western Australian Health System - Adjournment Debate

HON LJILJANNA RAVLICH (East Metropolitan) [10.25 pm]: The Australian Labor Party continually raises concerns about the Western Australian health sector and the Government's management of the many health issues, including growing waiting lists and the inability of the system to cope with the demands on it. We often think our cries of concern fall on deaf

ears. It is encouraging that a member on the government benches also shares the concerns of the Australian Labor Party about the state of the Western Australian health system. The concerns raised by Hon Simon O'Brien specifically relate to the treatment of Mrs Judith Park. I listened from my office to his contribution and his comments about the Office of Health Review. I do not know if anyone has dealt with the Office of Health Review, but some of my constituents have gone onto the Office of Health Review merry-go-round and at the end of the experience they were totally frustrated by the lack of support and action. I share the concerns of Hon Simon O'Brien and it is refreshing to hear a government member who is critical of the Government's own health policies. A serious problem exists and I hope Hon Simon O'Brien expresses the same concerns in the party room as he expressed in the House tonight. Some of his claims are quite serious and the Government should pay attention to them. He spoke of a public health culture. That is not new. Anybody who has had an association with the health sector knows such a culture exists and that it is difficult to break down that culture. He spoke about the lack of opportunities for families to be involved in the process. He made the serious allegation that if the Park family had not intervened, Mrs Park would have died. Hon Simon O'Brien nodded his head in response to that. It is serious when a government member alleges that if the family had not intervened, the patient would have died. It also begs the question of how many people in Mrs Park's situation who have not had the support of family intervention in the health system may have died because of a lack of intervention. Hon Simon O'Brien has brought to light the appalling deficiencies within the state health system. We are on the same wavelength and I am pleased he has raised this concern. It raises a bigger picture than the case of Mrs Judith Park, although I sympathise with what her family has gone through.

According to the member, health authorities determine life or death situations and that can occur without the intervention of family members. This is a very serious allegation and it is a very sad state of affairs given that much of this could be avoided with a more appropriate allocation of resources - not necessarily by providing more resources, but by working out how to do better with what is currently available. If at the end of the day there is simply not enough, perhaps whatever additional resources are required should be looked at.

I was very concerned when I heard the member read out the letter that had been received by Mrs Park from the minister. As I listened to it being read out it seemed to me to be a standard type of letter of which the member was critical, particularly of the advice that was given to the minister to convey to the Park family. We have a serious situation if advisers are not briefing the minister on the technical aspects of the case and therefore the seriousness of the situation confronting the minister. If the advisers are not able to convey those sorts of things to the minister, quite clearly the minister will send out bland letters and will go through the exercise purely as a political act rather than try to get a handle on the issue and offer some appropriate solutions to what are very serious matters. One must be concerned when a government member is critical of the advice given to the Minister for Health and, by implication, says that the minister's advisers are falling short in terms of the roles and functions they perform.

The people of Western Australia have received no social dividends in the health area - it is in an appalling state of affairs. Many of the so-called social dividends that were promised have been squandered on badly performing contracts and the sale of government assets, the proceeds of which have gone into propping up the Government's budget. We have a very serious situation in the State. The seriousness has been raised by the member and he has alluded in summary to the fact that there is major bungling within the state health system and a lack of effective recourse for those people who are aggrieved by the way the system deals with their issues, and specifically the way that the Office of Health Review deals with grievances. The member has also claimed that the advice provided to the minister was very poor indeed.

Hon Simon O'Brien: In this case.

Hon LJILJANNA RAVLICH: I would think that the Park case is one of hundreds of cases because people have come to my office who have felt very aggrieved for similar sorts of reasons to those which the member has detailed so frankly tonight in respect of the Park case. It is refreshing to see a member of the government put on record his concerns about the state of the Western Australian health system.

Hon Simon O'Brien: Can I just say that the member is right when she says that this type of situation may affect many other people; I am sure it does. What we need to do is to fix the problem. There will always be some sort of politicking, but I am concerned about fixing the problem rather than just scoring political points.

Hon LJILJANNA RAVLICH: I could not agree with the member more and I would say that part of the solution is for the member to attend the next meeting of coalition members and raise these concerns with them; he should hold the line. The member has raised grave and serious issues. He should stand and be counted in respect of his criticism of his government. He and I are not on different wavelengths, because we have had these concerns. The Park case is the tip of the iceberg.

Hon Simon O'Brien: I am not criticising the Government; I am trying to make a health system which is over 100 years old work more efficiently.

Hon LJILJANNA RAVLICH: That is fine. I have no problem with that. The member has identified some problems. These are areas of broad community concern. This case involves Mrs Park. However, I can assure members that the problem is more widespread, and her case is just the tip of the iceberg.

Question put and passed.

House adjourned at 10.36 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

736. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Resources Development:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Resources Development has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon N.F. MOORE replied:

As at October 1999, the following information is accurate.

- (1) Western Australian agencies are required to be Year 2000 'ready' not 'compliant'. That is, agencies must be able to continue providing their services in the year 2000. Agencies are required to undertake remediation actions and prepare contingency plans to ensure continuity of services across the transition period. If it is appropriate not to be compliant in some areas, then that is the decision and responsibility of the agency Chief Executive Officer. As at October 1999, Western Australian Government agencies have reported an average state of readiness of 94%.
- (2) Not applicable.
- (3) Western Australian agencies are required to report on their planned inventory processes. As at November 1999, 82% of agencies have reported that they have completed 100% of their inventory process with a further 17% reporting 90-99% completion.
- (4) Not applicable.
- (5) Budgetary allocation of funds for Year 2000 activities is the responsibility of each agency. In their monthly reports to the Deputy Premier, agencies are required to provide an estimate of the amount spent on Year 2000 activities (budgeted and non-budgeted) and an estimate of the amount (budgeted and non-budgeted) further required to expend on Year 2000 activities. As of the end of October 1999, an estimated total of \$143,444,420 was reported by agencies to have been spent on Year 2000 activities with a further \$18,792,648 required to be spent to complete Year 2000 activities.
- (6) Not applicable.
- (7) All agencies are required to prepare contingency plans to ensure continuity of services into the Year 2000. As at October 1999, agencies have reported an average completion of contingency plans of 87%.
- (8) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

737. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Energy:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness

of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Energy has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon N.F. MOORE replied:

As at October 1999, the following information is accurate.

- (1) Western Australian agencies are required to be Year 2000 'ready' not 'compliant'. That is, agencies must be able to continue providing their services in the year 2000. Agencies are required to undertake remediation actions and prepare contingency plans to ensure continuity of services across the transition period. If it is appropriate not to be compliant in some areas, then that is the decision and responsibility of the agency Chief Executive Officer. As at October 1999, Western Australian Government agencies have reported an average state of readiness of 94%.
- (2) Not applicable.
- (3) Western Australian agencies are required to report on their planned inventory processes. As at November 1999, 82% of agencies have reported that they have completed 100% of their inventory process with a further 17% reporting 90-99% completion.
- (4) Not applicable.
- (5) Budgetary allocation of funds for Year 2000 activities is the responsibility of each agency. In their monthly reports to the Deputy Premier, agencies are required to provide an estimate of the amount spent on Year 2000 activities (budgeted and non-budgeted) and an estimate of the amount (budgeted and non-budgeted) further required to expend on Year 2000 activities. As of the end of October 1999, an estimated total of \$143,444,420 was reported by agencies to have been spent on Year 2000 activities with a further \$18,792,648 required to be spent to complete Year 2000 activities.
- (6) Not applicable.
- (7) All agencies are required to prepare contingency plans to ensure continuity of services into the Year 2000. As at October 1999, agencies have reported an average completion of contingency plans of 87%.
- (8) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

738. Hon E.R.J. DERMER to the parliamentary secretary to the Minister for Education:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Education has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?

- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon BARRY HOUSE replied:

As at October 1999, the following information is accurate.

- (1) Western Australian agencies are required to be Year 2000 'ready' not 'compliant'. That is, agencies must be able to continue providing their services in the year 2000. Agencies are required to undertake remediation actions and prepare contingency plans to ensure continuity of services across the transition period. If it is appropriate not to be compliant in some areas, then that is the decision and responsibility of the agency Chief Executive Officer. As at October 1999, Western Australian Government agencies have reported an average state of readiness of 94%.
- (2) Not applicable.
- (3) Western Australian agencies are required to report on their planned inventory processes. As at November 1999, 82% of agencies have reported that they have completed 100% of their inventory process with a further 17% reporting 90-99% completion.
- (4) Not applicable.
- (5) Budgetary allocation of funds for Year 2000 activities is the responsibility of each agency. In their monthly reports to the Deputy Premier, agencies are required to provide an estimate of the amount spent on Year 2000 activities (budgeted and non-budgeted) and an estimate of the amount (budgeted and non-budgeted) further required to expend on Year 2000 activities. As of the end of October 1999, an estimated total of \$143,444,420 was reported by agencies to have been spent on Year 2000 activities with a further \$18,792,648 required to be spent to complete Year 2000 activities.
- (6) Not applicable.
- (7) All agencies are required to prepare contingency plans to ensure continuity of services into the Year 2000. As at October 1999, agencies have reported an average completion of contingency plans of 87%.
- (8) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

751. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Works:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Works has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

I refer the honourable member to the answer given to Question on Notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

752. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Services:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Services has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

I refer the honourable member to the answer given to Question on Notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

753. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Citizenship and Multicultural Interests:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Citizenship and Multicultural Interests has Ministerial responsibility -

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

I refer the honourable member to the answer given to Question on Notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, LANDCORP PARTNERSHIPS

1313. Hon CHRISTINE SHARP to the Leader of the House representing the Minister for Lands:

- (1) Which Government agencies/departments are in partnership with LandCorp for -

- (a) residential;
- (b) commercial; and
- (c) industrial developments,

in Western Australia?

- (2) How many of these -

- (a) residential;
- (b) commercial; and
- (c) industrial developments,

also include the Department of Land Administration (DOLA)?

- (3) Which Government agencies/departments have commissioned Landcorp or DOLA to dispose of their surplus properties?
- (4) In the DOLA Annual report of 1995/1996 it states that there are 396 615 square kilometres of 'reserved areas in Western Australia' -
- (a) how much of this land has been allotted to Landcorp and DOLA; and
 - (b) how much of this land is held in freehold titles and when were these freehold titles issued?
- (5) Can the Minister for Lands detail how all of this land is classified ie, is it freehold, leasehold etc?
- (6) As of December 1999, how much of this 396 615 square kilometres still remains as reserved land?

Hon N.F. MOORE replied:

DEPARTMENT OF LAND ADMINISTRATION

- (1) (a) College Grove, Bunbury
(b)-(c) Not applicable.
- (2) (a) One.
(b)-(c) Not applicable.
- (3) The following agencies have asked DOLA to dispose of surplus assets under the terms of the LAA: Westrail, Education WA, Police, Disability Services Commission, Family and Children's Services, Health, Agriculture WA, CALM.
- (4) (a) LandCorp – Nil.
DOLA – 10 reserves totalling an area of 165.3 hectares.
(b) None.
- (5) Reserve land is Crown Land.
- (6) As per the 1998/99 Annual Report there were 395,371 square kilometres of reserved land in Western Australia.

LANDCORP

- (1) (a) DOLA.
(b)-(c) Nil.
- (2) (a) 1
(b)-(c) Nil.
- (3) LandCorp has worked on behalf of -
WA Police Service
Westrail
Health Department of WA
Department of Training
Education Department of WA
Department of Disability Services

LANDCORP, RESIDENTIAL LAND RETURNED TO HOMESWEST

1314. Hon CHRISTINE SHARP to the Leader of the House representing the Minister for Lands:

LandCorp returned \$50m of residential land to Homeswest in 1998. This land originally had freehold titles -

- (1) When were these freehold titles issued?
- (2) What was their status prior to the issuance of freehold status?
- (3) Has Homeswest developed this land in Butler, Neerabup, Kiara, Golden Bay and Leda and was, or will, any of the remnant bushland on these blocks be retained?

Hon N.F. MOORE replied:

- (1)-(2) LandCorp sold residential land to Homeswest in 1998. Freehold Titles were transferred to Homeswest and Freehold Title to the land existed prior to LandCorp's ownership of the respective landholdings.

- (3) LandCorp is unaware of the status of the land mentioned and this question should be addressed to the Minister for Housing.

LANDCORP, SCHOOL SITES DEVELOPED AND RESERVED AREAS

1315. Hon CHRISTINE SHARP to the Leader of the House representing the Minister for Lands:

- (1) Which former school sites will LandCorp be developing for the Education Department?
- (2) How many square kilometres of 'Reserved Areas' are there in Western Australia?
- (3) What are their tenure type classification and the total area of each classification?
- (4) For question (2), what percentage does/did this constitute of -
 - (a) the reserved areas in Western Australia as of December 1999; and
 - (b) the reserved areas in Western Australia as of December 1992?

Hon N.F. MOORE replied:

DEPARTMENT OF LAND ADMINISTRATION

- (1) LandCorp to respond.
- (2) 395,400 square kilometres.
- (3) Unvested reserves – 10,300 Square Kilometres
Aboriginal reserves – 202,400 Square Kilometres
Reserves managed by Local Government – 5,100 Square Kilometres
Reserved managed for – 156,700 Square Kilometres
National Parks and the Nature Conservation (including those reserves managed by the Lands and Forrest Commission).
Other vested areas – 20,900 Square Kilometres
Total Reserved Area – 395,400
- (4)
 - (a) Reserved areas comprised 15.6% of the state at June 1999.
 - (b) Reserved areas comprised 15.9% (402,996 Square Kilometres) of the state at June 1993.

LANDCORP

- (1) Currently there are no arrangements for LandCorp to develop former school sites for the Education Department.
- (2)-(4) Not applicable.

RESERVES, AREA OF OTHER VESTED RESERVES

1316. Hon CHRISTINE SHARP to the Leader of the House representing the Minister for Lands:

In 1995/1996 the Department of Land Administration (DOLA) Annual Report identified 18 266 kilometres of reserves classified under the tenure type of 'other vested reserves'. What is the current square kilometre area of this tenure type and which Government departments are responsible for the initial administration of these lands?

Hon N.F. MOORE replied:

- (a) Other vested reserves (as per 1998-99 Annual report) comprise approximately 5% of the total reserved area of 395,400 square kilometres or an area 17,775 square kilometres.
- (b) Included under the heading "other vested reserves", are many Government organisations (eg. State Energy Commission, Water Corporation, Dept of Transport, Main Roads WA) which have responsibilities for managing reserves as well as many private bodies eg. Roman Catholic Church, St John Ambulance, Salvation Army, Silver Chain Nursing Association.

QUESTIONS WITHOUT NOTICE

FREMANTLE PORT, FUTURE REQUIREMENT STUDY

885. Hon TOM STEPHENS to the Minister for Transport:

I refer to the Fremantle Port Authority claim that the land occupied by the historic silos is needed to expand the container capacity of the port.

- (1) Has any study been done on the port's future requirement for container capacity?
- (2) If yes, when was the study undertaken, and will the minister table a copy of the study?

- (3) If no, what is the basis of the claim?
- (4) What size area is directly occupied by the silos?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2)-(3) In April 1997 the Fremantle Port Authority engaged a team of national and international consultants with considerable experience in port planning around the world to determine the port's future requirements for container and other trade. The results of the consultants' work are presented in the draft inner harbour port development plan, which was released for public comment in September 1999.
- (4) The area of land directly occupied by the silos, sheds and associated infrastructure is approximately 1.6 hectares. However, the demolition of the silo complex will mean that approximately 3 hectares of land is released immediately for development of container storage.

BURRUP PENINSULA, ABORIGINAL HERITAGE SITES

886. Hon TOM STEPHENS to the minister representing the Minister for Aboriginal Affairs:

I refer to last week's ABC *Four Corners* program and the reference to the apparent disruption and destruction of Aboriginal rock carvings on the Burrup Peninsula in the construction of Woodside Energy Ltd's North West Shelf gas project.

- (1) Will the minister table a copy of the agreement that was struck around 1980 between Woodside Energy and the WA Museum on the disruption and destruction of Aboriginal heritage sites on the Burrup Peninsula?
- (2) If not, why not?
- (3) What steps is the State Government taking to ensure that this cultural heritage is properly catalogued, the catalogues are secure and the rock carvings are properly protected?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. Due to the amount of time required to obtain and access information, all of which is currently stored off-site, the member is requested to place the question on notice.

SPECIAL FACILITY LICENCES

887. Hon N.D. GRIFFITHS to the Minister for Racing and Gaming:

With regard to the issue of special facility licences -

- (1) Does the Government support amendments to the special facility licence provisions of the Liquor Licensing Act as proposed by the Australian Hotels Association and the Liquor Stores Association of Western Australia in a submission to the then Minister for Racing and Gaming in December 1999?
- (2) If so, what is the legislative timetable?
- (3) If not, why not?
- (4) Given the decision of the Supreme Court in *Liquor Stores Association of Western Australia Inc v Manya Holdings Pty Ltd* delivered on 17 February 2000 and the concerns of the industry associations, will the minister be giving this matter a high priority?

Hon N.F. MOORE replied:

- (1)-(4) While I do not propose to use as a reason for not having made a decision about this matter the fact that I have been the minister responsible for only a short time, I am aware of the views of the various sectors of the industry about this matter. I am in the process of having discussions with industry representatives. I am also in the process of discussing it with tourism representatives. I will be making a decision when I have had sufficient briefings and I have come to a conclusion about this matter. At present it is under consideration.

NORTH FREMANTLE GRAIN SILOS, CYANIDE CONTAMINATION STUDIES

888. Hon J.A. SCOTT to the Attorney General representing the Minister for the Environment:

- (1) What studies has the Environmental Protection Authority or the Department of Environmental Protection carried out on cyanide contamination at the North Fremantle grain silos, and will the minister table them?
- (2) Has cyanide been detected in the grain silos; and, if yes, how much?
- (3) Have studies been carried out by the EPA or DEP on the impact of using cyanide-contaminated rubble from the grain silos as breakwater fill; and, if yes, will the minister table them?

- (4) Did the Minister for the Environment inform the Minister for Heritage of the cyanide contamination; and, if so, when?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

Providing the information in the time required is not possible and I request the member to place the question on notice.

Hon Ljiljanna Ravlich: This is question time and you can't answer questions!

Hon PETER FOSS: We cannot satisfy members opposite. They ask questions that require a lot of information. If they asked nice short questions, it would be much easier to get the information.

PYRTON SITE, WOMEN'S PRISON DEVELOPMENT

889. Hon NORM KELLY to the minister representing the Minister for Aboriginal Affairs:

With regard to the minister's recent approval for the redevelopment of part of the Pyrtton site as a women's prison -

- (1) Will the minister table the advice and recommendation that he received from the Aboriginal Cultural Material Committee; and, if not, why not?
- (2) Will the minister table all information that accompanied the ACMC advice; and, if not, why not?
- (3) If the minister is unwilling to utilise the accountability mechanism of tabling this information, will the minister ensure that this information is provided to the people of Eden Hill prior to the Western Australian Planning Commission considering final approval for the development of this prison?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) Yes. I seek leave to table the correspondence.

Leave granted. [See paper No 819.]

- (2) No.
- (3) A list of all documents, reports and submissions received and considered by the ACMC in this matter can be made available by the Aboriginal Affairs Department. Some of those documents will be available from the department under its information access policy. Other documents may be available under the Freedom of Information Act 1992. A number of the documents include confidential cultural information contained in ethnographic reports and site files, significant third party information and confidential communications, and accordingly will not be made publicly available.

MANDATORY SENTENCING

890. Hon MURIEL PATTERSON to the Attorney General:

Did the Attorneys General from the four Labor-governed States last week try to force Western Australia to change its "three strikes and you are in" legislation for repeat home burglary offences, and is the federal Labor leader, Kim Beazley, prepared to use federal legislation to override our state law? If so, what action does the Government propose to take on this issue?

Hon PETER FOSS replied:

This was a rather unusual happening at the Standing Committee of Attorneys General. SCAG has always been very apolitical and directed towards matters of law concerning the States. The new Attorney General in Victoria, apparently unaware of the role of SCAG, brought an objectionable motion before SCAG condemning Western Australia and making outrageous statements about its legislation, completely ignoring the fact that many other States in Australia also have mandatory sentencing legislation, and virtually in one move doing the same thing that he was accusing Western Australia of doing: He had found us guilty and was imposing the penalty before he had even heard the evidence and made the decision. He received somewhat lukewarm support from the other Labor States, and I am pleased to say it was lukewarm because I think they recognised that what he did was negative in terms of the operation of SCAG, and they also sympathised with the proposition that it is not for other States to tell this State, or vice versa, how it should deal with legislation in its own State and area. I am pleased that we had the support of the non-Labor States in rejecting that motion. The motion called on the Federal Parliament to overrule Western Australia's legislation for mandatory imprisonment for home burglary. That was quite outrageous, given the report of the Senate committee which said that, in practice, our legislation did not infringe the Convention on the Rights of the Child. The practice of the court is the law. The practice to which it was referring was authorised by the Young Offenders Act and various other provisions. The practice and the law happen to be identical. Of more concern is the fact that Hon Kim Beazley appears to be determined to dissociate himself from the Labor Party in Western Australia on a federal basis. I am pleased to say that the Western Australian Labor Party had a bipartisan attitude throughout the debate on the Western Australian legislation and it supports the legislation. I am concerned that the lay party in this State is not showing the same bipartisan attitude as has the Parliamentary Labor Party. I hope that the Parliamentary Labor Party holds hard and maintains its bipartisan attitude - I congratulate it for having done so to date -

and that it will, with us, help these people understand the serious considerations made by this Parliament before the legislation was passed and how fairly this legislation has worked in practice. I condemn the fact that Mr Hulls was prepared to misuse the Standing Committee of Attorneys General in that way. I am concerned that the federal Labor Party supports moves to repeal our legislation, but I take heart from the bipartisan attitude of the members opposite.

TOURISM, DR DAVID SUZUKI

891. Hon J.A. COWDELL to the Minister for Tourism:

- (1) Can the minister confirm that he intervened to quash the move to appoint prominent environmentalist David Suzuki as the Western Australian Tourism Commission's foundation patron for its new ecotourism strategy; and, if so, was this because of Dr Suzuki's opposition to the Government's forest policies?
- (2) Is it the view of the Government's new advertising agency 303 and the WATC that the Elle advertising campaign should not continue beyond 2002; and does the minister concur with that view?

Hon N.F. MOORE replied:

- (1)-(2) It is fascinating that the local newspaper in Western Australia has such an extraordinary variation of views on this issue. When the Government decided to use Elle Macpherson to promote Western Australia, the newspapers spent a considerable amount of time criticising that decision, as did the Opposition. Now that it has been a great success, and there is some suggestion that we might not continue with that program, I am being criticised for not continuing with it. One cannot win in this place.

Several members interjected.

The PRESIDENT: If members interject, I will allow them to interject, but they will waste their time and few further questions will be able to be asked. It is entirely up to members.

Hon N.F. MOORE: The Tourism Commission is currently developing a five-year strategic plan for tourism in Western Australia. It will be called "Partnership 21" and it is about partnerships between the private sector and the Government on the promotion of Western Australia as a tourism destination. Part of that includes a proposal to ensure that the natural attractions - the environment of Western Australia - is promoted as a selling point for our State, because we have some marvellous attractions that people from other parts of the world are anxious to see. We are developing strategies to enable them to visit areas of Western Australia which are environmentally attractive and to participate in our environment, not just to be put on buses and in cages so they can do nothing but look. "Partnership 21" has not been finalised. Until it is finalised, everything that has been taking place so far is a draft. There was talk about using Dr Suzuki or some other well-known environmental person with an international reputation to provide an opinion about the sort of tourism and experiences that people might have in Western Australia which relate to the environment and to have their imprimatur in respect of those activities. That is being contemplated by the commission now.

Hon J.A. Cowdell: Do you have an objection to that?

Hon N.F. MOORE: I have not objected to that. There was a suggestion that he might become the chairman of a foundation which would have an ongoing role in Australia. However, my view is that it was not appropriate for someone who does not belong in Western Australia to chair that foundation. However, I do not have a problem with Dr Suzuki being involved in the accreditation of any programs we might run; indeed, he has indicated that he would be pleased to do that and he was very excited about some of the programs we have in mind.

Hon Mark Nevill: The fruit fly problem in Carnarvon might be a good place to start.

Hon N.F. MOORE: I do not disagree with that. Nobody has been directing anybody to do anything in relation to this matter. It is in a draft state at the moment and will be determined by the Government in the reasonably near future. We will finalise "Partnership 21".

I do not know 303's views on using Elle Macpherson. My view is - I believe it is the view of the Tourism Commission - it will be finalised when we finalise the "Partnership 21" strategy, and we will continue to use Elle Macpherson if she is available. We have a contract which goes for another two years. She may or may not be interested in continuing the contract, but I hope she is, and I will be seeking to engage her again for a future contract in Western Australia. That is to be negotiated in the future. I do not know the views of 303; that is my view.

RAILWAYS, BUDGET FOR ACCESS REGULATOR

892. Hon KIM CHANCE to the Minister for Transport:

- (1) What is the current budget appropriation for the operation of the regulatory functions under the rail access legislation or, more specifically, the Government Railways (Access) Act 1998?
- (2) What are the estimates of the appropriation required for the proposed new office of the Western Australian independent rail access regulator?

Hon M.J. CRIDDLE replied:

- (1)-(2) I cannot give the member the exact figures for those operations off the top of my head. However, I reiterate what

I said earlier during the committee stage: We are asking for the appropriation in the current budget to be transferred. We will be transferring the budget for the access regulator, who is the Director General of Transport, to a regime whereby we can have an independent regulator.

Hon Ljiljanna Ravlich: How much are you transferring? You must have some idea.

Hon M.J. CRIDDLE: The current budget allowance will be transferred for that requirement. As we go into other appropriations, obviously figures will change. However, that is the present situation.

ILUKA RESOURCES LTD, MUNDIJONG MINING LEASE APPLICATION

893. Hon TOM STEPHENS to the Minister for Mines:

I refer to the recommendations of the mining warden regarding the application by Iluka Resources Ltd to establish mineral sands mining near Mundijong.

- (1) What action has the minister taken in relation to these recommendations; and, if no action has been taken, does he propose to take any action?
- (2) If so, what action; and, if not, why not?

Hon N.F. MOORE replied:

- (1)-(2) As members may be aware, the mining warden has made certain recommendations about an application by Iluka Resources Ltd to convert an exploration licence into a mining lease in the vicinity of Mundijong. I do not know where the Opposition is coming from on this issue, but the exploration licence was granted by the Labor Party when it was in government, and that began the whole process of giving companies a certain degree of comfort about what they might be able to do in that area of land in the future. We have now reached the stage at which the company has been to the Warden's Court on the granting of a mining lease. The warden has made certain recommendations to the Minister for Mines. On the basis of the number of Supreme Court judgments in these matters, I am required to read all the evidence from both sides of the argument and make a decision based on that evidence. I have yet to do that. I understand that there are many points of view on this, and once I have read the evidence, I will make a decision about whether I will grant a mining lease.

However, I make the point, as I have on a number of previous occasions and recently in this House, that the granting of a mining lease does not automatically confer the right to mine. It provides a mining company with security of title; however, it can mine only when it receives environmental approval. It must be clearly understood that if a mining lease is granted, mining cannot take place until the required level of environmental approval has been given. In this case, I anticipate that any attempt to mine at Mundijong would involve the highest level of proper and appropriate environmental assessment. No decision has been made. However, I am following the process that the Supreme Court requires me to follow, which involves reading all the evidence on both sides of the argument.

GREEN POWER SCHEME

894. Hon GIZ WATSON to the Leader of the House representing the Minister for Energy:

In respect of the Government's green power policy and the minister's comments in *The West Australian* of Thursday, 23 March -

- (1) Does the minister intend to allow fossil fuel power producers access to the 300 000 kilowatt market after 2004?
- (2) Is this the same market ostensibly established for independent power producers under the green power scheme to come into effect after 30 September 2000?
- (3) Is the minister aware that some companies seeking to enter the green power scheme as suppliers will not have their projects ready until 2004?
- (4) Will the minister explain how he intends to protect the integrity of the green power scheme if he allows access to green power markets by fossil fuel power producers?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The Government is considering an open access regime that will allow any independent power producer to use the Western Power distribution and transmission systems to sell power direct to customers using more than 300 000 kWh per annum from 1 January 2003.
- (2) Under the green power scheme, renewable energy generators will be permitted from 30 September 2000 to use the Western Power distribution and transmission systems to sell power direct to customers using more than 300 000 kWh per annum.
- (3) There are numerous proposals for the generation of renewable energy in Western Australia. Whether they will

be commissioned by 2004 depends on a range of factors including size and type of project, availability of investment funds and market demand.

- (4) The integrity of the green power scheme is not dependent on excluding private fossil fuel generators from the medium sized commercial market. The objective of the policy is to encourage and promote the uptake of renewable energy in Western Australia. This will be done by the following means -

Western Power will sell a green power product, NaturalPower, and it is permitted to charge a premium for this more expensive electricity;

Western Power is required to purchase at least half of the electricity for NaturalPower from private producers, thus widening the opportunity for potential new generators;

from September 2000 these private producers will also be able to sell to customers other than Western Power, although Western Power would have to provide any necessary standby power from non-renewable sources; and

after January 2003 these customers may be able to combine renewable purchases with any necessary non-renewable power from any source.

PRISONS, LITERACY AND DRUG REHABILITATION PROGRAMS

895. Hon HELEN HODGSON to the Minister for Justice:

- (1) Does the Ministry of Justice conduct regular reviews of the effectiveness and/or success of literacy education programs conducted in Western Australia's prisons?
- (2) If so, when was the last review of literacy education programs conducted?
- (3) Does the Ministry of Justice conduct regular reviews of the effectiveness and/or success of drug rehabilitation programs conducted in Western Australia's prisons?
- (4) If so, when was the last review of drug rehabilitation programs conducted?
- (5) If no reviews are conducted by the ministry of either program, why are reviews not conducted and how does the ministry assess whether to continue or modify programs?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) December 1999.
- (3) Not to date.
- (4) Not applicable.
- (5) To date the ministry has not formally evaluated drug rehabilitation programs. Program managers discuss issues and amend programs as deemed appropriate. A naltrexone pilot is due to commence in the near future and a component of the pilot will be an evaluation of both the naltrexone program and the delivery of programs within the ministry. The pending pilot drug court and associated diversion strategies has a requirement for evaluation.

STURT CREEK, KIMBERLEY

896. Hon MARK NEVILL to the Minister for Transport:

- (1) Is the Minister for Transport aware that the community south of Sturt Creek in the southern Kimberley has been isolated for two to three months probably four or five times in the past seven years because of floodwaters coming down Sturt Creek, which is about 450 kilometres long? I was at Billiluna yesterday and the river is three metres deep. The people south of there will be isolated for at least another two months.
- (2) I approached the minister's predecessor about building a bridge across Sturt Creek on the Tanami Road from Halls Creek to Alice Springs. Is there a plan to construct such a bridge?
- (3) If not, will the minister give it close attention with a view to building one?

Hon M.J. CRIDDLE replied:

- (1)-(3) My understanding is that money is available for the Tanami Road and that the creek crossing is part of the funding arrangement. However, I will make sure that is absolutely correct and pass on the information to the member.

Hon Tom Stephens: You can make it a condition of the sale of Westrail.

Hon M.J. CRIDDLE: We would be all right if the Opposition would get on with the sale.

This is a very serious matter because, as the member said, that road has been cut often over recent years. We are dealing

with that issue. There is a deal of funding for the Tanami Road and, as I said, I will get the information and send a clear indication back to the member.

PETROL PRICES

897. Hon TOM HELM to the Leader of the House representing the Minister for Fair Trading:

I refer to escalating petrol prices, particularly in regional and rural Western Australia, and ask -

- (1) Is the minister aware that the Federal Treasurer removed petrol from the price surveillance mechanisms of the Australian Competition and Consumer Commission on 1 August 1998?
- (2) Did the State Government support the removal of petrol from the ACCC price surveillance in 1998; and, if so, why?
- (3) In the light of the massive increases in petrol prices, will the State Government make representations to the Federal Treasurer to have petrol again nominated a "declared product" with the ACCC?
- (4) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) In the short time available it cannot be confirmed whether the State Government was consulted. However, the minister will obtain the information and advise the member.
- (3)-(4) Following recent price volatility and concerns for the effect of regional disparity on consumers, the minister announced an inquiry into petroleum products pricing in this State. The form of the inquiry and its terms of reference will be announced in the Parliament in the near future. Appropriately, the Government will consider recommendations from the inquiry before deciding on any initiatives.

LABOUR RELATIONS REFORMS, IMPACT

898. Hon RAY HALLIGAN to the Attorney General representing the Minister for Labour Relations:

Can the minister inform the House of the impact of this Government's labour relations reforms on the working environment?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

Western Australia is the first Australian State to provide a statutory minimum set of conditions for almost every worker in Western Australia. The 2000 increase in the adult minimum wage of \$21.30 was equal to the increase recommended by the Western Australian Industrial Relations Commission.

Today, working men and women in Western Australia have a choice about their working arrangements and the freedom to join or not join unions - unions which this Government has ensured will be financially accountable to their members. Real wages have increased markedly under this Government's policies and Western Australia currently has the second lowest unemployment rate of all the States - 6.3 per cent - the highest participation rate and the largest increase in job vacancies of all States.

There have been claims that the deregulation of the labour market has greatly affected the status of women in this State. This Government commissioned research into the gender pay gap between Western Australian females and males, and women nationally in 1998. The research revealed that a large part of the widening gap since the early 1990s between Western Australian females and males, and between Western Australian females and Australian females, occurred in the short period between August 1992 and August 1993.

The researchers were unable to explain why Western Australian female earnings deteriorated so rapidly over this period. The Workplace Agreements Act and the Minimum Conditions of Employment Act did not come into effect until December 1993. Notwithstanding this fact, the Minister for Labour Relations has established a working party, which includes representatives from employers, employees and the Government, to jointly develop strategies which will assist in reducing the gender pay gap for women in Western Australia.

WESTERN POWER, ELECTRICITY TO ABORIGINAL COMMUNITIES

899. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

- (1) Is the State Government considering proposals for Western Power to accept responsibility for the provision of electricity to permanent Aboriginal communities in regional Western Australia with a population in excess of 200 people?

- (2) Is initial consideration being given to piloting this proposal in three large Kimberley Aboriginal communities - Bidjardanga, Yiyili and Wangkatjunka?
- (3) What contribution will be made by the State Government from Western Australia's consolidated fund to cover the cost of this proposal, and what contribution will be sought from the Commonwealth?
- (4) Is it proposed that the Commonwealth's contribution will be deducted from the Aboriginal and Torres Strait Islander Commission's federal budget?
- (5) Will the minister representing the Minister for Energy table a list of those regional and remote Aboriginal communities that have a population in excess of 200 people?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) No.
- (2) Consideration is being given to a pilot proposal for the competitive procurement of power supplies for the three Aboriginal communities.
- (3)-(4) The final contribution from the State Government for this proposal is yet to be determined and discussions with the Commonwealth are ongoing.
- (5) The Minister for Energy has provided a list of those regional and remote Aboriginal communities which have a population of around and above 200. I seek leave to table the list.

Leave granted. [See paper No 820.]

FINANCE BROKERS, FRAUD SQUAD INVESTIGATION

900. Hon KEN TRAVERS to the minister representing the Minister for Police:

I refer to the pressure the major fraud squad's investigations into the finance brokers scandal is placing on other inquiries and ask -

- (1) What is the number of unallocated cases currently before the fraud squad and what is the total value of those cases?
- (2) What is the unit's operational budget and how much of that has been spent so far this year?
- (3) Has the unit applied for additional funding or resources, given the size and scope of the finance brokers inquiry?
- (4) What additional assistance, financial or otherwise, has the minister committed to ensure the squad's ability to investigate other cases of fraud is not compromised?

Hon PETER FOSS replied:

- (1) There are 26 unallocated cases before the fraud squad with a total dollar value of \$2 157 000.
- (2) As the member is aware, in 1997 the Government committed a total of \$1.65m over a four-year period for the investigation of white-collar crime. It was agreed this money would be allocated to the major fraud investigation unit as follows -

1997-98	\$250 000
1998-99	\$400 000
1999-00	\$500 000
2000-01	\$500 000

Of the \$500 000 that was allocated through special government funding this financial year - 1999-2000 - a balance of \$223 065.09 remained unspent by the unit as at 23 March 2000. In addition to the above funding, the major fraud investigation unit has an annual budgetary allocation from the Police Service. The total operational budget allocated to major fraud investigation from the Police Service budget for the 1999-2000 financial year is \$77 000 and at 23 March 2000 the balance was \$7 738.47. The total of both allocations - the operational budget provided by the Police Service and special government funding - is \$577 000 and the remaining balance is \$230 803.56. This figure does not include a salary component.

- (3) Additional staff have been seconded from other units in the Police Service, including eight detectives and one analyst. No other funding or resources are required.
- (4) The additional eight detectives and one analyst have been allocated to the finance brokers inquiry and nine permanent detectives on staff are continuing to deal with other cases.