WESTERN AUSTRALIA

PARLIAMENTARY DEBATES

(HANSARD)

THIRTY-FOURTH PARLIAMENT
FOURTH SESSION
1996

LEGISLATIVE COUNCIL

Wednesday, 25 September 1996

Legislative Council

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

BILLS (2): ASSENT

Message from the Governor received and read notifying assent to the following Bills -

1. Reserves Bill

2. Westpac Banking Corporation (Challenge Bank) Bill

MOTION - URGENCY

Productivity WA 2000 Vision

THE PRESIDENT (Hon Clive Griffiths): I have received the following letter addressed to me and dated 25 September 1996 -

> Dear Mr President
>
> At today's sitting, it is my intention to move under SO 72 that the House, at its rising, adjourn until 9.00 am on 25 December 1996 for the purpose of discussing:
>
> > the waste of government resources in producing the vacuous promotional document "Productivity 2000 Vision"; and
> >
> > the government's failure to develop any meaningful strategies to promote productivity.
>
> Yours sincerely
>
> Alannah MacTiernan MLC
> Member for East Metropolitan 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 A.J.G. MacTIERNAN (East Metropolitan) [2.35 pm]: I move -

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

For those members who have not had the pleasure, or misfortune, to receive a copy of the document to which I refer, I draw their attention to it. It was released by the Minister for Labour Relations with a lot of fanfare. I think he chose a large city hotel in which to launch this document. It is called "Productivity WA 2000: A vision". The document would be much better titled "Productivity WA 2000: A mirage", because a close inspection of this document reveals it is nothing but an illusion. Whether it refers to the Government's record or to what the Government intends to do in future, the document contains absolutely nothing of substance. It purports to present a bold vision - brazen would be a better word - to lead WA into the next century and to build on reforms and achievements to date by taking steps to ensure this State becomes a recognised world leader in productivity. In reality, there are no steps in this document that will lead to anything like an increase in productivity. There is nothing of any substance whatsoever in the document. It has been met with general derision by the community and has received very little press coverage because the media have seen the document for what it is - a bit of publicity hyperbole which contains nothing of substance. It is an exercise in content-free desktop publishing. It is full of vacuous waffle and is absolutely devoid

of any policy or ideas on how we can achieve global eminence in productivity. The great misfortune of this is that productivity is an exceptionally important issue. It is necessary for us to come to terms with productivity if we are to be able to sustain the standard of living we enjoy currently, let alone improve that standard of living and ensure that the more disadvantaged in our community are able to improve their lot.

We are dealing with a very important issue. This issue needs sound policy direction. However, we have been given what the Minister for Transport would refer to as a load of collywobble.

Hon E.J. Charlton: That is one word I do not use.

Hon A.J.G. MacTIERNAN: It is the one word we have learnt from the Minister. We could do a search of *Hansard*. The Government's first thrust within this document is to say it will build on its achievements already in the field of productivity. I will spend some time looking at the Government's achievements in productivity. The only data available is a diagram, which does not contain any numbers, in the document. It shows a series of sticks and purports to indicate rates of increase in productivity as a comparison between Western Australia and Australia-wide. It states that the figures are provided courtesy of the Western Australian Treasury. No reference is made to the place from which the data is obtained or when and how it was compiled. That is significant because the material presented is way out of line with the material presented by the Australian Bureau of Statistics. The ABS presents a range of data which can be used to calculate the Western Australian and national productivity levels.

Without going into too much dry information, I briefly indicate that the standard way to calculate productivity is to take the money value of the production generated by the work force per hour and divide it into the real state gross product. Both elements of that equation come from figures provided by the ABS. It can be seen from examination of Western Australia's productivity performance between 1990 and 1995 that the best performance year was 1990-91 in which productivity increased by 4.9 per cent. That was the year following the Federal Government's introduction of its new enterprise bargaining scheme. In 1995, which is the last year for which these figures are available, after two years of the Government's labour market reforms that Mr Kierath says have led to productivity gains, Western Australia's productivity has fallen most dramatically. The figure for 1995 indicates that Western Australia has moved into negative productivity, with a fall of 1.6 per cent in that year. This was well below the national average performance and was the second lowest of all States. How can the Minister for Labour Relations on the basis of that data possibly claim that he can stand on his record and that he has delivered productivity growth through these labour market reforms? It is complete nonsense. His record is condemned. Of course, the Opposition supports the statement in the document that labour market reforms are a factor in our productivity performance. They certainly are - a negative factor.

One of the most interesting points is the effect the Minister's performance in industrial relations has had on the level of industrial disputation. The Minister states in his informative publication that unfortunately Australia has developed a reputation for industrial disputation. He is dead right. Australia had a reputation with its trading partners in the 1960s and 1970s of a nation with a degree of volatility in its industrial relations. That was not to Australia's credit with its trading partners. It must be acknowledged that in the years of the Labor accord those levels of disputation fell dramatically to a 40 year low in the early 1990s. That is a tribute to the capacity of Labor Governments to work with both industry and unions to achieve outcomes that deliver to both groups. Those days are passed in Western Australia. The Australian general news broadcast document of 12 July 1996 indicates this Government's performance in the area of industrial disputation, which feeds into the question of productivity, and it states that the number of employees involved in disputes increased in Australia by almost one-third to 344 300, mainly due to the huge increase in Western Australia which went from 15 900 in 1994 to 99 700 in 1995.

The same thing is happening at a federal level. Mr Reith was taken to task by our Japanese trading partners recently because they are concerned about what is happening in Australia. They are concerned that the workplace legislation and the proposed industrial relations reforms are causing a level of disputation, and are undermining the great gains in Australia over the past 13 years. There is a problem with industrial disputation and it has largely been created and exacerbated by the current Government. Far from showing it has achieved anything in the way of assisting productivity through the containment of industrial disputation, the Government must be prepared to accept the statistics which show the level of disputation in Western Australia and Australia generally has increased dramatically under conservative Governments in the 1990s.

The Minister for Labour Relations said his labour market reforms have also given employers the flexibility they need. Of course, the Opposition supports flexibility. It has said many times that it supports the notion of enterprise bargaining; I emphasise the word "bargaining". The Opposition supports a system that involves the development of enterprise based agreements, but they must be agreements. An agreement is not a unilateral decision by an employer

to impose a new set of conditions on current and future employees. The Opposition also believes it is absolutely crucial that those agreements be underpinned by a decent and substantial award safety net. The Opposition knows that the flexibility to which Mr Kierath refers is nothing but code for a reduction in wages and conditions, particularly in the long term. Even Mr Kierath has conceded that at least 20 per cent of people under the individual contracts system have received a reduction in wages. Over the long term the Opposition estimates that it will be even more substantial. Even in those industries that initially offered an increase in rates of pay under workplace agreements, when those agreements were renegotiated the position of employees deteriorated quite markedly. Their wages and conditions started on a steady road of decline.

The Minister interestingly says the success of these reforms in producing the flexibility and win-win outcomes is demonstrated by the fact that Western Australia has the highest average weekly earnings in this country. That is true, but a closer examination of the figures reveals the productivity factor is a mirage. The wages certainly cannot be attributed to the introduction of workplace agreements. That system has been a spectacular failure at one level. The Minister cannot advise how many people are on workplace agreements; he can provide only a cumulative figure. However, being generous to the Minister, it is estimated that 5 per cent of the work force are on workplace agreements.

It is hard to see that the general wages outcome could be attributed to then to workplace agreements. Interestingly, although we have the highest average weekly earning in Australia, this State has the highest average wage for males but the lowest for women. How can that be? If this has been the result of workplace agreements, is it any wonder that women are not on workplace agreements? It is probably the opposite as the vulnerable areas have a high representation of women under workplace agreements; that is, woman who have taken a cut in wages. More to the point, we have the highest wages in Western Australia due to labour market forces and the resources surge. The statistics indicate that an average weekly earning in the mining sector is $1 200 a week. That is the major contributor to the increase in wages, not any positive development in productivity; it is simply due to the exploitation of our natural resources.

Unfortunately, I have little time to make important remarks about productivity. There is a productivity paradox: The concentration on cost cutting leads companies down the wrong path. It has been shown conclusively that company concentration on cost cutting results in missing the holy grail of productivity improvement. We can achieve productivity gains only by focusing on customers and product.

HON MAX EVANS (North Metropolitan - Minister for Finance) [2.52 pm]: We have yet another one of these urgency motion debates. I do not know where they come from or how they are thought up. However, the motion reads -

> the waste of government resources in producing the vacuous promotional document "Productivity 2000 Vision" . . .

This is a very well written booklet containing a lot of detail and information.

Hon John Halden: What detail?

Hon MAX EVANS: There is a famous saying by Omar Khayyàm that if one does not know where one is going, any road will get one there. The Government knows where it is going; the Labor Party has never known where it is going, so any road will get it there. It goes to and fro. This is a valuable document.

Hon Cheryl Davenport: You just don't want to give the detail to anyone else.

Hon MAX EVANS: Hon Cheryl Davenport is not intelligent enough to read the document - I cannot help her with that.

The Press response to the document was very good, which is a change. The headline was "Make WA the best: Kierath". I thank Rebecca Rose for that article which stated that the Minister for Labour Relations wanted Western Australian workers, employers, trade unions and political parties to push the State to the top of an international table of living standards. That is a good objective. The Press has seen the message we are trying to deliver. The Labor Party family must have a disease of negativity rather than being positive. The motion also states -

> the government's failure to develop any meaningful strategies to promote productivity.

Hon Alannah MacTiernan talked about cost cutting. Productivity has nothing to do with taking costs on or off; it relates to making products more effectively and efficiently. The Government understands that. People must think about international benchmarks. If we are to provide the framework for the twenty-first century in this State, as we were elected to do, we must provide leadership. We are doing that. We are providing leadership for the community in this booklet of ideas, which has been distributed so people can think about these issues and the great needs of this country. One need is greater productivity. The Government is providing the leadership and the bureaucracy will assist, support and encourage the community, particularly the business community, to take up that challenge. The theme of our vision is reward through productivity. The latter part of the book refers to a regionalisation and globalisation plan. It reads -

> To achieve the Productivity WA 2000 vision, Western Australia's workforce must have both a global and regional outlook. A global outlook is imperative to understand the extent of competition faced by industry, and the exciting opportunities to develop and maintain a competitive edge by achieving world best practice.

I emphasise, world best practice.

Hon John Halden: For how long has that been around - 10 years?

Hon MAX EVANS: It continues -

> Western Australia is well located to participate in the opportunities arising from growth in the Asian region. It is expected that more than half of the growth in world markets over the next 10 years will occur in Asia where our products and services are in demand.

If we do not keep up with these markets and increase productivity, we will lag behind. Our walls contain messages, "We must get greater productivity"; those messages attracted media attention in the past couple of days. We must increase productivity in loading containers and getting the goods out of the country. The same situation applies with airports. We need more air freight services leaving the country. We must concentrate on unit cost for tonnes a kilometre on our roads which take goods to airports and wharves. A friend of the Labor Party, Rick New, told me ssome years ago that when exporting to Japan it cost as much to deliver bricks to ships as it did to make them. That was due to the on-costs with the wharves and the road transport cost. We must improve our rail tonnage costs to deliver products to the coast for export. If we do not reduce costs, we will be out of business.

We are always looking at power unit cost. In January last year we changed the method of charging for gas. That was designed to increase the number of people using gas and increase productivity in the State. We must make people conscious of these aspects. The Western Australian Farmers Federation tells people around the country about the extra products farmers can grow. They can achieve greater productivity. That would result in airline and shipping companies making more money with increased exports. We have a world best practice strategy, a process by which organisations continually monitor human resources and management practices. I relate to this point, and not only because it is a money subject. Much of what we do relates to world best practice. For example, Lotto's performance is up with the best in the world. We have set a pattern and a plan to make it the best in Australia, and it now happens to be the second best per capita system in the world. It is 20 per cent better than other States on a per capita basis. We have made that happen.

This booklet will make people conscious of how to advance society and to achieve personal benefits in return. One cannot obtain higher incomes without greater productivity; otherwise, one has a financial disaster. The document reads -

> The State Government will encourage WA enterprises to achieve world best practice through a process of continuous improvement:

The document then refers to regionalisation strategy. I can relate to this in what I have done in marketing and management with the Totalisator Agency Board. It has not just happened. We are performing far better than South Australia on a per capita comparison.

Hon A.J.G. MacTiernan: Why are productivity figures going down then?

Hon MAX EVANS: I will come back to that point. I can do anything with Australian Bureau of Statistics data.

Hon John Halden: Obviously the Minister for Labour Relations can too.

Hon MAX EVANS: By developing a new board and attitude following changes in legislation, the State Government Insurance Commission has achieved the second lowest premiums in Australia. We inherited a disaster with that organisation.

Productivity is about being smarter at what one is doing. If I had had more time, I could have developed the areas on which the ABS figures were based. If the member had provided them to me before this debate, I could have determined those matters. These statistics relate to Hon Norman Moore's comments about jobs statistics. I asked Hon Kay Hallahan a question on this matter and she said, "I don't know how they get the figures." A survey is conducted every six weeks, but the figures cannot relate to the true situation every month. Statistics are available to be used, not to hang one's hat on. I would like another day to consider how those statistics have been used. The tourism statistics in this State are a long way out of line with the real figures. A formula is used with the figures. I do not hang my hat on them; if others do, that is their business.

As a Government, we must set leadership and show people that a formula and process is in place. I will not outline the whole booklet, as other speakers may do that. We must consider what needs to be done to increase productivity. We should not forget that a wide range of businesses operate across this country. Each will have a different way to increase productivity. The Government's way is to focus on the customer, and to provide information quickly. Abattoirs must process more animals each hour, and so on. Cartage is another problem. We all have our own way to improve productivity. We must encourage people to think about it.

I congratulate the Minister for this very worthwhile document. I also congratulate his department, because this document has been well received, contrary to the negative remarks made by Hon Alannah MacTiernan. We will move into the next century with far greater productivity in this State. I do not worry about the Australian Bureau of Statistics figures.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [3.00 pm]: This is the same trend that has developed recently in question time. The Minister for Finance says that these are wonderful Liberal Party documents. The only difficulty is that the taxpayers of Western Australia have paid for their production. It was a slip of the tongue by the Minister, but it was so transparent it was an affront. Members opposite who spoke about accountability when they were on this side of the House four years ago were venomous in their criticism -

Hon Max Evans: Do members recall the document entitled "Future Directions"?

Hon JOHN HALDEN: Over the past few months we have witnessed a campaign by the Liberal Party, financed by the taxpayers of Western Australia. I need go no further than to point to the $340 000 spent on workplace agreements advertising, or to the $73 500 spent on the "Proudly West Australian" campaign. That was nothing but a front for the Liberal Party and the Government's election promises. I need go no further than the document about local government, which cost $21 540 to produce and $41 000 to distribute. I point also to advertising in the *Stirling Times*, the *Eastern Suburbs Reporter,* and the *Wanneroo Times* about the Reid Highway which cost another $2 000. A pamphlet was produced by the Minister for Transport relating to streetscape enhancement along Great Eastern Highway at a cost of $6 400. Another wonderful example was "Providing the Best Roads for the Future", another document by the Minister for Transport, who is spending public money like it is going out of fashion. Production costs amounted to $35 000 together with $106 000 for distribution.

We also had the Government's self-promotion of its Budget, which was factually incorrect internally, costing $35 000 for advertising. Also a pamphlet which was factually incorrect internally was distributed to 602 000 households, but contained nothing but Liberal Party propaganda. We are not aware of the cost of that material. Based on the other figures, it would have cost around $100 000 to produce and distribute -

Hon Kim Chance: Do not forget about the television advertising campaign on the farm water supply grants scheme.

Hon JOHN HALDEN: It was a wonderful scheme that no-one has ever heard of! It was oversubscribed and underfunded by the Government.

Hon N.F. Moore: What about the cost of the opening of the northern suburbs railway?

Hon JOHN HALDEN: The Government has reached new heights in using taxpayers' money to fund Liberal Party campaigns! On Monday at a press conference in a city hotel the Minister for Labour Relations produced a document entitled "Productivity WA 2000". This document will increase productivity, but only for the printing industry! The Minister for Finance had the temerity and gall to say that the document contained detail. It does not! He said it

contained vision. If that is vision, someone has gone blind. It must be the Minister for Finance - and I know the cause of that! According to the Minister for Finance, the document talks about leadership. It does not. It refers to strategies which have been implemented in this State over the past five to 10 years; but the taxpayers have paid another $10 500 for production of this document. This is an abuse of taxpayers' money. The document contains nothing but recycled ideas and government propaganda.

I turn now to the so-called insightful detail in this document. One segment is entitled "Productivity WA Vision" and refers to achievements so far. This is a list of achievements of the Liberal Party Government. There are inconsistencies all over the place here. The Minister for Finance had it right; it is Liberal Party propaganda. It was a slip of the tongue, but he was correct. That page does not reflect the facts. As Hon Alannah MacTiernan said, the graph is distorted. Any statistician would be very proud of it, because it provides no information. Beneath that table is another page of no value. However, we paid $10 500 to produce the document. How much was paid to accommodate the press conference at the hotel? How much did we pay the public servants who produced this document? How much did we pay for this piece of nonsense?

The document refers to "strategies" but offers no detail. It uses the phrase "the Government will promote" but, again, no detail . Another heading is "Future Developments will include" but, again, no detail is offered. There is no detail of the aims of the rewards plan. The document goes on and on, line after line, with glib statements about policies and initiatives which have been or will be implemented, but it has no purpose. It does not lay out any new policy or say where the State is heading with any clarity or direction. Page after page contains parenthood statements: The Government will assist workplaces to be innovative and productive. I hope so! It will have the best record of fairness and equity in Australia. I hope so! All of that has nothing to do with productivity. These are nebulous, meaningless parenthood statements that one would expect in a political document put out by any political party. The document contains page after page of coloured photographs, without a substantiating statement on any area.

If, as the Minister for Finance said, the document contained proposals to improve wharf or airport productivity or road infrastructure, or detailed how the Government and industry would achieve that, it would be a document of some substance. It is not! Anyone who reads the document will note that it contains no substantial background in any area. It is not factually correct in a number of areas. I need go no further than highlight the nebulous nonsense in the document. I turn to the heading "Why the Productivity WA 2000 Vision affects Western Australians". That page reads -

> This needs an efficient Western Australian economy -

Everyone knows that! It continues -

> - supported by productive organisations.

This is super intelligent stuff and would require an enormous skill to write. It continues -

> This can only come from a cooperative labour-management relationship based on fair awards, motivated employees and a safe workplace.

What nonsense! If we want to achieve international competitiveness, that is what this page is all about. However, it is not the only element. What about infrastructure, locality, a resource base, international or local finance, and political stability? The Government is taking us into the next century with this political document "which is insightful, contains detail and provides leadership" - according to the Minister for Finance.

Hon N.D. Griffiths: This is taking us back to the nineteenth century.

Hon JOHN HALDEN: This page highlights the absolute inexperience of the person who wrote it and the nonsense it should be shown up for, and is nothing else but Liberal Party propaganda, along with all the other vastly expensive Liberal Party propaganda. In the past four to five months in excess of half a million dollars of taxpayers' money has been used to fund the Government's election campaign. This document is not in any way information. The 21 agencies that provided information about advertising spent $8m last year.

HON P.R. LIGHTFOOT (North Metropolitan) [3.10 pm]: In the several years I have been in this place I have been filled at times with utter despondency for opposition members because they could be much kinder to Western Australia than they are. There must be something that even a bad Government could have done in four years that could attract some recognition from the other side. However, they continually knock the greatest State in the

federation, and perhaps even the greatest place on earth, and continually and insidiously undermine their State. It is their State as much as it is the Government's State. What is it about opposition members that makes them crave the chance to constantly undermine and bite the hand of the very State that feeds them? Why can they not say something decent and good about Western Australia?

Hon Kim Chance interjected.

The PRESIDENT: Order! When I call order, the member should not keep on interjecting. Members do not have to like what the speaker says.

Hon Kim Chance: I didn't.

The PRESIDENT: Order! The member can refute it in due course.

Hon Kim Chance: I apologise, Mr President.

Hon P.R. LIGHTFOOT: I hope the other side can show some circumspection and not stir me up too much. The document to which the Opposition has referred is a very slim volume. It has nine leaves plus the cover. What does the Opposition expect? Does it want something like the *Encyclopaedia Britannica* to quote from? This document is the slimmest volume I can imagine. The whole thrust of it is that this Government, and even a Government of the other side, has every right to let the public know what the Government is doing - what the State has achieved. Sometimes the Government even gets some assistance from the other side. Members opposite should not say that I am not benevolent at times and that I do not show some gratitude for the contribution some people on the other side make to Western Australia. However, for heaven's sake, why must they knock the State all the time?

Hon Alannah MacTiernan said this document contained nothing of any substance. I will read something to rebut what Hon Alannah MacTiernan said. The document states that one of Western Australia's achievements so far is that flexibility and choice have been introduced into the Western Australian industrial relations system. The Opposition may not agree with that, but that introduction has made people in this State the highest wage earners in the nation. It has made this State one that earns about $30 000 per capita annually. That is about three times greater than the average of the Eastern States. It has made this State's export earnings almost one-third of the nation's. It has made this State the leader in the employment level. It has made this State the highest in productivity and the biggest producer of oil, gas and iron ore in this nation. Members opposite cannot continue to knock the place. Why can it be, that the Government is wasting resources when it is the biggest in most areas of mineral production in the Commonwealth?

Hon N.D. Griffiths: Why?

Hon P.R. LIGHTFOOT: It is in spite of the Opposition. However, it is not a waste of resources if the State is the best and the biggest and it is showing how it is done. If the Opposition is truthful to itself and believes there is a waste of resources, surely that view should be balanced by recognising that Western Australia is the biggest producer of diamonds, the fourth biggest producer of gold and nickel, and the biggest exporter of alumina powder in the world, and has the highest per capita earnings in the nation and one of the highest in the world. Why can the Opposition not say something about that? Why must it be totally negative all the time? There must be something decent members opposite can say about Western Australia. It has been just as good to them as it has been to me.

Hon N.F. Moore: Precisely; they didn't appreciate what they had when they were in government.

Hon P.R. LIGHTFOOT: They do not appreciate what they have. In past decades members opposite have lived off the iron ore fields, which were developed by a Liberal Government, and gold mining, which was rejuvenated by a Liberal Government - a Government that had the foresight to create a new Mining Act that led the way and facilitated the gold boom of the late 1970s and early 1980s. It took a Liberal Government even to connect the standard gauge railway from Kalgoorlie to Perth. Even the freeways that members opposite drive on today were planned by a conservative Government. What is that if it is a waste of resources? I thought that was demonstrably quite the opposite and rebutted completely the argument Hon Alannah MacTiernan puts in her rather nefarious urgency motion.

Other speakers said this was a vacuous document. Then there was the oxymoron by Hon John Halden who said that it was vacuous; that it contained nothing but propaganda and recycled ideas. That is a dichotomy of terms; it is completely opposite. Why can opposition members not get even their grammar right? They talk about things that

are widely apart. I thought that when they started to express what vacuous was, they might at least have got the term in the same ballpark; but they did not get even that right.

I will give those blokes opposite some free advice: They must get their act together, for godsakes. They are not doing a very good job. They should gird their loins and tighten their belts, and really start looking as though they are an alternative Government. When they produce unmitigated drivel like this urgency motion, they will have no show. For heaven's sake, we need someone who shapes up at least like an alternative Government. No Government functions better than when it has an Opposition that looks as though it may be an alternative. However, members opposite are not looking like that yet. They must do something to which they can say they have contributed. They cannot continue to live off the wealth of Western Australia that was created by conservative Governments over the past several decades and, at the same time, continue to denigrate it.

Members on this side totally refute the allegation of a waste of resources in this Government. One of the many great things this Government has done is deregulate gas. The gas from the North West Shelf was being strangled and a bottleneck was created because of the regulation of the gas. Deregulation decreased the price of that gas from roughly $4 to $1.80 a gigajoule, and to probably $1.50 a gigajoule. I am told that, subject to the offshore facility not being too far offshore, the State or industry might even get gas at $1.20 a gigajoule. That was an example of one of the greatest achievements and greatest decision making I have seen for a long time. A queue of international producers of both steel and direct reduced iron lined up to take advantage of the medium that was available to convert 62 to 64 per cent Fe into something that was of far more value to this State. Instead of $US25 an ounce, it came up at something like $US140. I am a little worried that those companies that are lined up - AUSI Ltd, Mineralogy Pty Ltd, Asia Iron Ltd, Compact Steel Pty Ltd, HIsmelt Corporation Pty Ltd, and Kingstream - may not get off the ground at least on their scheduled start-up times.

Several members interjected.

Hon P.R. LIGHTFOOT: I am not sure why it is; I cannot specify. I have my feelings about it.

Several members interjected.

Hon P.R. LIGHTFOOT: My feeling is that members opposite should get behind their State and stop knocking it. Deregulation of the gas industry must work for more people than BHP Minerals. As much as I applaud the $1.5b that BHP will spend on producing two million tonnes of hot briquette directly reduced iron per annum, it must work for more people than that. That is something we should consider. It must work for the people lined up to take advantage of the decision made by this Government to deregulate the gas industry. That is what did it. We have the greatest iron ore fields in the world and the greatest production of gas in the southern hemisphere, and it should work for all Western Australians.

HON KIM CHANCE (Agricultural) [3.21 pm]: This is a vacuous document. It is also meaningless, mindless garbage, rather like the speech we have just heard. This man gives us a lecture on being loyal to and supporting our State. This is the same man who wrote to Washington asking it to expand its export enhancement wheat program - a program that was destroying wheat growers in this country - simply because he wanted to punish Western Australian wheat growers. I do not know what the member has against Western Australian wheat growers, but just this week he proved that he has not learnt a thing. During a radio interview about gold royalties he suggested that Western Australian wheat growers should also pay a royalty because of the damage they are doing to the land. That is meaningless, mindless garbage. They should have got him -

Several members interjected.

The PRESIDENT: Order! The member should talk about the motion.

Hon KIM CHANCE: Indeed I will, but I will finish what I was saying.

The PRESIDENT: If it has nothing to do with the motion you cannot even finish it.

Hon KIM CHANCE: It has something to do with the motion. It would have been more meaningless, mindless garbage had Hon Ross Lightfoot been given the charter to write it, but that did not happen.

In making statements of intent to the extent this document does, the Government might have told us how it intends to implement the proposals. I refer members to the page headed "Creativity and Innovation", and the paragraph outlining future developments, which states -

> support and protection of wages and conditions of all groups in the work force
>
> the minimisation of the need for third party intervention
>
> encouraging parties to use, where appropriate, mediation and conciliation services to resolve difficulties
>
> greater harmonisation between state and federal industrial relations systems

What a joke! It continues -

> improving the accountability of employee and employer organisations.

There is not a word about how the Government proposes to put in place a legislative program that can achieve those goals. A number of people might agree that those intentions are worthy and a number might say that they are already in place. However, in the limited number of sitting days left in this session it appears that we will not hear a word from the Government about how it intends to achieve this. We know there is no legislation proposed to achieve those aims. We are not talking about past achievements; we are talking about intent. It is mindless garbage and feel good stuff, and the taxpayers have paid over $10 000 for its production.

Several members interjected.

Hon KIM CHANCE: I will now turn to the graph.

Several members interjected.

The PRESIDENT: Come to order!

Hon KIM CHANCE: Here we have the Liberal Party patting itself on the back for improvements it has made in productivity. The graph on the page headed "Productivity WA 2000 Vision" shows that the big advances in productivity in Western Australia occurred when the Labor Party was in office - in 1989-90, 1990-91 and 1991-92. By 1992-93, we saw a decline in the productivity advantage Western Australia held over the rest of the country. In 1994-95, Western Australia's gross productivity also declined in nominal terms. The Government does not have a great deal about which to pat itself on the back.

We are talking about increases in Western Australian productivity and the causes. I was trying to ascertain from Hon Ross Lightfoot what he meant when he referred to the reasons for that increase in productivity. I could not understand what he was talking about. There is a very good reason for Western Australia's having a much higher per capita level of productivity than the rest of Australia: We have more mining. For example, Western Australia's productivity stands head and shoulders above that of Japan - one of the world's economic giants. In US dollar terms our productivity is more than double the per capita productivity of Japan, simply because the Japanese work force is fundamentally a manufacturing work force and a large part of our income - as Hon Ross Lightfoot knows very well - comes from mining, which generates huge amounts but employs very few people. Obviously, we will have high productivity. I thought everyone knew that, but apparently Hon Ross Lightfoot did not.

Point of Order

Hon P.R. LIGHTFOOT: I claim that Hon Kim Chance misrepresented me on the basis that he said that I had said in a radio interview that Western Australian wheat growers should be taxed. That is not what I said at all. A radio journalist asked me whether I said that and I replied that I could neither confirm nor deny it. That is precisely what I said.

Debate Resumed

HON A.J.G. MacTIERNAN (East Metropolitan) [3.28 pm]: All three speakers on this side have acknowledged that productivity is extremely important. The great disappointment of this document is that it simply does not deal

with the issues. As Hon Kim Chance said, there is not one solid or substantial proposal; there is no indication of any change the Government plans to implement in order to achieve what are very worthy aims.

Very real things need to be done in order to increase Western Australia's productivity, and they involve government action. First, we must stimulate research and development. Without research and development we simply will not be able to compete with the other post-industrial nations in the region and, indeed, worldwide. Unfortunately, the record of conservative Governments, particularly federally, has been very bad in this regard. We have seen a winding down of the Commonwealth Scientific and Industrial Research Organisation - it has experienced a massive reduction in funding - the slashing of tax incentives for research and development, particularly in small companies where the very real benefits of syndication of research and development are being stripped by the Federal Government; and, of course, money spent on education being reduced at both federal and state levels.

Secondly, Governments can provide an industrial relations framework which encourages a culture of cooperation, flexibility and productivity. Unfortunately, as the Opposition has clearly demonstrated, the attempt by Mr Kierath to do this through the individual contract system has failed on two counts.

[The motion lapsed, pursuant to Standing Order No 72.]

FINANCIAL LEGISLATION AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [3.31 pm]: I move -

That the Bill be now read a second time.

The Financial Legislation Amendment Bill 1996 contains an extensive raft of amendments to the Financial Administration and Audit Act and the financial provisions of other affected Statutes. By way of background, this Bill incorporates the earlier Financial Legislation Amendment Bill 1995 introduced into the other House, which was withdrawn at the commencement of this session. It was originally intended to introduce further amendments to the 1995 Bill; however, as the amendments are quite extensive, it was considered they would be less confusing if introduced in a new consolidated Bill.

I do not propose to restate the amendments contained in the 1995 Bill as members will be aware of the range of issues which were addressed in some detail in the second reading speech in the other House. Briefly, the more significant of these amendments included: The requirement for departments to prepare financial statements on an accrual basis; the transfer of a net appropriation upon the transfer of a function; amendments to the operation of the revenue equalisation account; and strengthening of the focus of internal control.

As part of our commitment to ongoing public sector financial management reform, this Bill implements two further significant financial management reforms which were recently announced by the Under Treasurer to chief executive officers. The Bill will extend to departments and "sub-departments" the banking arrangements currently enjoyed by statutory authorities through operating trust accounts as though they were bank accounts within Treasury. Operating trust accounts will provide to departments an improved facility for the carryover of funds from one financial year to the next which will provide them with increased flexibility in their resource management, promote more efficient utilisation of resources and complement forward borrowing arrangements.

It is intended that departments will operate directly against their operating accounts. Consequently the consolidated fund will provide a source of funding with funds being released to the agencies according to their cash flow profiles agreed with Treasury. Improved cash flow practices resulting from these initiatives should help eliminate the traditional "end of year" spend up and improve the return on investment of the public bank account. Parliament authorises departments' operations through the appropriation process. Accordingly, the purposes to which the operating accounts can be applied are limited to the purposes specified in the estimates and to "new items" approved by the Governor under the Treasurer's advance arrangements.

The second of the initiatives relates to net appropriations. To optimise the efficiencies provided by departmental trust accounts and as a further incentive for departments to adopt the net appropriation arrangements, it is desirable to widen the eligible revenues and to streamline some of the administration process. The Crown Solicitor has advised that, due to the difficulty in distinguishing between fee for service and regulatory fees, fees for service set by regulation are currently not eligible for net appropriation. This has proved to be a significant disincentive to departments using the net appropriation arrangements to their fullest extent. Following consultation with the Crown Solicitor, the eligible net appropriation revenues are being extended to apply to all revenues other than taxes, fines, royalties and any other revenues that may be prescribed by regulation. For example, this Government recognises that revenues of the nature of commonwealth general purpose grants and government trading enterprises tax equivalent payments collected by central agencies should not be available to those agencies and should be applied for the overall benefit of the Budget. It is the intention that regulations specifically excluding such revenue will be promulgated shortly after this legislation is passed.

To further streamline the existing net appropriation arrangements the requirement for a formal annual agreement to be established, as to the use of net appropriation arrangements, between the Treasurer and the chief executive officer will be removed. In its place the Treasurer will from time to time determine the revenues which would be available to a department under a net appropriation, subject to the previously mentioned exclusions, and will continue to have the capacity to impose any conditions deemed necessary in respect of the expenditure of those revenues. In the light of experience since the Government's introduction of net appropriation arrangements in the 1994-95 Budget, the existing requirement for an annual agreement and determination each year has now served its useful purpose. Therefore, the Bill provides for future determinations to have effect for such period of time as is specified in the determination.

Currently a net appropriation can operate only when the net appropriation agreement is entered into prior to the Budget being introduced. With the bringing forward of the tabling of the Budget the flexibility is being provided to enable the Treasurer to agree to net appropriations for new revenue sources identified by a department during the course of the year. In keeping with the spirit of the 1993 undertaking to provide Parliament with details of the net appropriations, the Treasurer will be required to table a copy of the net appropriation determination within 60 days of agreeing to such a net appropriation arrangement where it occurs after the Budget.

Recognising that it can be difficult to discern immediately the effect of a large amendment Bill, and because several clauses address more than one amendment, an explanatory memorandum has been prepared. I commend the memorandum to members as a helpful guide to the intent of the amendments to the Act, and as a ready clause by clause explanation of the Bill's provisions. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

STATE ENTERPRISES (COMMONWEALTH TAX EQUIVALENTS) BILL

Receipt and First Reading

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

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [3.38 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to introduce an income tax equivalent regime and a wholesale sales tax equivalent regime for Western Australia's more significant government trading enterprises. The introduction of the tax equivalent regimes fulfils the State's commitments arising from an agreement reached between the Commonwealth, State and Territory Governments at the 25 March 1994 Premiers' Conference. Under that agreement the Commonwealth passed legislation in 1995 formalising State and Territory government trading enterprises' exemption from its income and sales taxes, with effect from 1 July 1994. In return, the States and Territories undertook to apply tax equivalent regimes, based on the relevant commonwealth tax laws, to their government trading enterprises by March 1997.

The agreement was reached at a time when the Commonwealth was seeking to subject State and Territory government trading enterprises to its own tax laws. By agreeing to subject its government trading enterprises to the tax equivalent

regimes, Western Australia will retain control over the tax revenues that will be generated by these enterprises. These revenues will be able to be directly applied to the benefit of all Western Australians, rather than lost to Canberra.

The introduction of the tax equivalent regimes is also an essential aspect of the national competition policy to which Western Australia is a signatory. The regimes will apply taxation arrangements to state government trading enterprises which are similar to those experienced by firms operating in the private sector. This is a major step towards ensuring that government trading enterprises compete on an equal footing with privately owned companies. Fair competition between government trading enterprises and their private competitors will help to achieve the most productive use of resources in the Western Australian economy and bolster the State's capacity for economic growth.

Western Power, AlintaGas and the Water Corporation are already subject to the tax equivalent regimes as such provisions were included in their enabling legislation. This Bill will provide the framework for the tax equivalent regimes to be introduced for other government trading enterprises and will also provide for the orderly transition for those agencies currently paying a levy under the Public Authorities (Contributions) Act, which will be repealed by this Bill. The majority of government trading enterprises entered the tax equivalent regimes from 1 July 1996.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

CRIMINAL INJURIES COMPENSATION AMENDMENT BILL

Report

Report of Committee adopted.

VOCATIONAL EDUCATION AND TRAINING BILL

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon N.F. Moore (Minister for Employment and Training) in charge of the Bill.

Clause 1: Short title -

Hon CHERYL DAVENPORT: I was unable to speak to the Bill last night, and I want to make some remarks without contravening standing orders. Rather than the ministerial control provided by this Bill, it would be to vest those controls in a statutory authority. That will not place so much responsibility on the Minister in terms of accountability. As a result of the Royal Commission into Commercial Activities of Government and Other Matters accountability has become very important. The Bill leaves the current Minister and those who follow him wide open to criticism as a result of the authority that will be vested in the Minister. The Minister has a responsibility to appoint the State Training Board and college councils. However, this Bill does not ensure a balance of that power, or recognise the interests of stakeholders in the training accreditation council and the State Training Board. The Minister can give significant direction to those agencies, and no doubt that direction will concentrate as much as anything on policy. The Minister can also remove college council members. No standards are set, and the Bill refers to "the opinion of the Minister". To some extent, this will leave the Minister wide open to a lot of criticism in the future. The Minister will also have the power to redirect money from the more successful colleges to other colleges.

Sitting suspended from 3.45 to 4.00 pm

Statement - Chairman - Short Title Debate

The CHAIRMAN (Hon Barry House): For the last nearly nine years that I have been in this Chamber, we seem to have adopted the New Zealand practice with regard to the Committee debate. While the short title debate is not explained explicitly in our standing orders, it is explained in *Parliamentary Practice in New Zealand* by David McGee, which states at page 254, and this may help members to understand what the short title debate is about -

> The Short Title debate is not a mini second reading debate where the principles of the bill can be discussed, but it is an opportunity for members to debate the drafting of the whole bill by relating their speeches to more than one clause in the bill.

Obviously at certain times I am prepared to exercise some discretion, but there is some concern that short title debates are becoming mini second reading debates, and we need to be wary of that.

Point of Order

Hon KIM CHANCE: Mr Chairman, I take this opportunity to explain why the situation has arisen which has resulted in your making that statement, which is otherwise an extraordinary coincidence.

Hon N.F. Moore: Hon Cheryl Davenport raised it when she first spoke, when she said she was not quite sure whether she could make her remarks.

Hon KIM CHANCE: Mr Chairman, can you clarify what is possible within the terms of the statement that you have made about the short title debate? There was a misunderstanding last night - I accept the majority of the blame for that - which led to two members not being able to make the contributions they wished to make at the second reading stage. I have checked the standing orders, as far as I am able, with regard to the scope of the short title debate, and my understanding is that, while it is not within the standing orders to canvass the policy of the Bill, it is consistent with the standing orders to make points about specific aspects of it. It is also consistent with the standing orders for a member to make comments of a policy nature about a specific aspect of the Bill if they are proposed as an alternative to the policy of the Bill, provided always that they relate to a specific issue, such as the presence or otherwise of trade unions on the ITCs. Mr Chairman, I ask you to confirm whether my understanding of the standing orders is correct.

Hon GEORGE CASH: It seems to me discussion has occurred, even if it be informal discussion, between members of this Chamber about what may be debated at various stages of a Bill. Mr Chairman, it would be very helpful if at some stage you could have circulated that passage which you just read so that the whole Chamber is very clear about what may be said at what time. I understand that in this debate, some concessions may be granted, or some discretion may be used, for the very reason that Hon Kim Chance has raised, but I would not want a decision or ruling to be made now, based on these particular circumstances, when it is very important that the Chamber and all members understand clearly what remarks may be made at the various stages of a Bill. It may be convenient to have that passage distributed in due course. It may also be convenient for the leader of the Government and the Leader of the Opposition to sit down together and acknowledge various degrees of latitude that may or may not be available at the Chairman's discretion. I make that point because it may suit the Chair at this stage to have that passage circulated so that we are very clear, rather than use this as the time to make a particular ruling.

The CHAIRMAN: I am happy to do that, and I undertake to circulate that article, but I will make a couple of other points. While I am aware of some of the background to a number of members not being able to contribute to the second reading debate last night, I am not responsible for that; I cannot help the fact that a member is not here. It is my job to run the Committee stage of the debate and interpret the standing orders. I take Hon George Cash's point, and there is ground for some leniency; by nature, I guess I am a fairly lenient Chairman. However, I must reiterate that in the short title debate members cannot revisit the principles that have been established during the second reading debate of a Bill. Members can certainly make some points that are pertinent to various clauses of the Bill along the way, but they cannot run a second reading debate. That is basically the broad rule that will operate.

Committee Resumed

Hon CHERYL DAVENPORT: I apologise to the Chamber for creating some confusion, but I did want to make some points that a close friend of mine, who is an employee of the TAFE sector, had asked me to raise in this debate. I will try to relate my remarks to the various clauses of the Bill.

With regard to the powers which this Bill will confer upon the Minister, it would be a safeguard for the Minister and the community to have an alternative policy which would concentrate some of these powers in a statutory authority that was answerable to the Parliament. The other area that I want to raise is the move to autonomous colleges. Why was it necessary to create autonomy, because the claimed advantages in the Bill seem to suggest that local management will be responsive to the needs of local communities and enterprises? While I have no difficulty with that, that could perhaps have been achieved just as well, and perhaps with greater economy, under the present structural arrangements, with some adjustments.

Another concern I raise is that in the move to autonomous colleges there must be a guarantee that everybody would opt for the same standard of curriculum. That may pose difficulties in the future. Some major questions must be posed when we get to clause 37, which deals with plans or guarantees for autonomous colleges cooperating with

career paths of TAFE personnel. The move to autonomous colleges could present problems for their career paths. I question the research that has led to this major change in the vocational education and training sector. I wonder whether it was based on only the economic rationalist approach, as I see it, of the McCarrey report. I wonder what internal research through the TAFE head office has been conducted on issues such as student attrition and retention rates, the adequacy of predictors, on-course successes, the benefits of competency based training for students, graduates, industry and TAFE alike and the benefits, if any, to be gained from autonomy. I will certainly try to keep my comments brief and raise those issues when dealing with other clauses of the Bill.

Hon J.A. COWDELL: We have got beyond the substantive policy stage. Much of that debate was carried on at the second reading stage. We now look at the model before us contained in this Bill. The model is for implementing the stated aims of the Government as outlined in the Minister's second reading speech. Most of us are in a position to agree with many of the goals that were put forward. Those are the sort of goals that came out of the Vickery report. There is no need to go into those. They refer to the training system being client-based and the need to monitor quality and standards; TAFE colleges needing to be responsive to communities; competition for public resources; and the key goal of strong direction setting and coordination mechanisms at the centre with the capacity to plan beyond the immediate needs of industry in a manner which is consistent with the Government's economic, industrial and social priorities.

Envisaged there, of course, is a mix and a balance between central direction and local autonomy; indeed, we have to address that question with the clauses that we will deal with clause by clause shortly. There are obvious concerns as to whether we have the correct mix. We may agree with the goals, but when we look at the range of individual clauses, I am not sure that the correct balance has been achieved. We certainly have had concern expressed about the level of power given to the Minister and the scope for ministerial direction that pervades many clauses of the Bill and whether it is not excessive for what is needed for the system.

We have had concern expressed that some sectors, such as Port Hedland and Karratha, which have had a greater degree of autonomy seem to be going to a model of far less autonomy. However, the counter argument is that the TAFE colleges will be given greater autonomy and that we have a compromise somewhere in the middle, although I notice that the proposal was perhaps more towards the independent college model. I do not know that I am convinced by that model, but there was an argument by Vickery of going more to independence rather than autonomy. We must get the mix right, and it is a complex structure. We must certainly get the mix right in the degree of commercial involvement of the colleges. That seems to be the new sector that is opening up. We have probably had a de facto experiment running for the last two years and experienced a level of autonomy envisaged in this Bill operating as though it were already in force, except in the area of commercial operations.

I was concerned last night when the Minister attacked Hon Jim Scott when he raised some detailed matters of concern about what sort of system we set up. I have sat in this Chamber on many occasions when the Minister has yelled out, "Give me chapter and verse; give me details of foul-ups in operations so that they can be addressed." Last night the Minister yelled across the Chamber to Hon Jim Scott, "You, the Green, an opposition backbencher, provide the solutions! I am only the Minister. What are you doing raising these problems when we are addressing the structure? You should be giving me the solutions." That is absolute rubbish. The Minister has the majority in this Chamber and he has a whole department. It is up to him to address the concerns. The individual concerns that Hon Jim Scott mentioned may point to structural problems which have come up in the last two years during the trial run of what we are setting up here formally. Those concerns must be taken into account.

I am the first to admit that in these situations we obviously have to set up a model as best we can, try it, and then adjust it. We are all aware that the previous Acts needed to be rationalised and coordinated under this Bill. The apprenticeship system and the technical education system in many respects had failed. We recognise that now is the time to make substantial changes to try to address more comprehensively the changes in demand for training. I am the first to admit that. It is imperative we do it if we are to address Australia's place in the international market economy. This is our attempt to do that. However, we need to pay attention to the current model, or should I say the current muddle, with respect to some of the operations we have seen over the past year or so.

Hon N.F. Moore: You should read the description of TAFE by John Dawkins when he was the Federal Minister. It was appalling. I was embarrassed to read it.

Hon J.A. COWDELL: We have recognised the need for a substantial overhaul.

Hon N.F. Moore: You did nothing.

Hon J.A. COWDELL: I will return to the point from which the Minister has diverted me. Both the Federal and State Labor Parties recognised the need to inject a massive amount of resources into the TAFE sector for the first time in Australia's history; something the conservatives did not do. This Government may have a model which puts a few bells here and a few whistles there and which tinkers at the edge. That will not save the system, as it draws out hundreds of millions of dollars from this sector, particularly federally. This legislation will be of no comfort as it starves the whole sector. The Federal Labor Government put the necessary resources into the system, although I agree that it needed to be adapted from where it was.

Hon TOM HELM: The Australian Manufacturing Workers Union is aware of at least 100 tradespersons who carry union cards and who are now working overseas, mostly in Africa and Indonesia, Papua New Guinea and various other places in South East Asia.

The title of the Bill concerns education and training. I know of no other area under which I can raise my concern that the need for this Bill is lost on this place. The need to take account of the various technologies we deal with today is not met in this Bill. One of the Minister's last statements last night was about the changes to the TAFE method of doing things and this legislation will diminish the independent college model somewhat, which we acknowledge is a previous Liberal Government initiative, and increase the use of the TAFE training system. That is the opposite of what this Bill should stand for; that is, to meet the challenges of the future.

This State is basically a net exporter of skills. The system put in place by the Charles Court Government and enhanced by the previous Labor Government has resulted in the best that there is. I recall Hon Ross Lightfoot's comment in the previous debate on a leaflet circulated by this Government telling us how good is productivity. We did not achieve increased productivity because people use eighteenth and seventeenth century skills in the work force. It did not come about because we have not made changes. In this debate we are trying to say that this Bill reflects backward changes which do not build on that success. This present Administration has been telling us how wonderful it is beyond any shadow of a doubt. It claims that in four years it could not do much about what went wrong with the Labor Government, but it is responsible for the changes that occurred between 1989 and now. Hon Kim Chance proved that productivity has increased and the Minister declared how wonderful things are and how the changes proposed in this Bill will benefit the State across the board. Quite frankly, to bring the TAFE training system in line with the standard of the independent colleges, to create the changes the Minister proposes, will be a backward step.

There is no clause in the Bill on which one can discuss this issue. I am not arguing the philosophy, I am arguing that the short title does not mean what the Minister says it means. It is a contradiction. The Bill does not reflect the needs of the future. That can be demonstrated only during this part of the Committee stage. We must carefully consider what this short title means and correlate that with the response to the second reading debate by the Minister. By my interpretation of the short title and the Minister's response we are being asked to vote for a Bill that takes us backwards rather than forwards. I oppose the short title.

The CHAIRMAN: Having decided the principles and policy of the Bill during the second reading debate, the short title debate is to refer to how the clauses in the Bill will or will not achieve that policy. I will make a statement as soon as it is organised. However, that will not be on this Bill. We may work gently towards that.

Point of Order

Hon TOM HELM: Can we refer to clauses collectively or individually?

The CHAIRMAN: Both.

Committee Resumed

Hon J.A. COWDELL: Mr Chairman, the only problem is that if I refer to the detailed implications of, say, clause 37 on the functions of the college, you will rightly say to me that I should save my comments for when we reach clause 37. I regret to say that I will do that!

The CHAIRMAN: Order! On clause 1 the member makes the point and uses the clauses as they come up for debate to illustrate the point he made on clause 1.

Hon J.A. COWDELL: The Opposition recognises the need to create a new model for TAFE colleges and technical education, which has become unresponsive and which needs to be adapted because the collapse of the apprenticeship system. The Minister has put forward a model for limited autonomy, but not for independent colleges. Some of the

clauses indicate that there should be a considerable role for the Department of Training to play in providing guidelines and establishing constraints. We must be careful about the allocation of that level of power in the clauses where that is established, because we want to see initiative from the independent colleges. Under this legislation the colleges will be encouraged to develop sector specialities and to get overseas full fee paying students. However, the domestic growth of colleges will be restricted. They will have overseas students allocated to them; they will not be able to go into the market place independently. In other words, the centralised TAFE International of WA will allocate students. It will demand that autonomous colleges conform to a training profile. We must be concerned to ensure that this training profile does not end the autonomy of individual colleges and the goals they want to achieve.

The Minister, with the State Training Board, will be given considerable powers. We hope the Minister will exercise those powers in a positive way. I am particularly concerned here, as I have been with the Hedland College and the Karratha College, that staff members have a career structure, comparability of service, ease of transfer and so on and that the Minister will use his powers in that regard usefully. Those powers could be employed detrimentally by his imposing a training profile straightjacket on colleges. The worst case scenario would be for the autonomous colleges to be provided with the new set of regulations or accountability - there is a considerable requirement to account for state training - and not to be allowed the autonomy to experiment and develop their own fields of expertise and marketing. Perhaps even worse still would be to see the area totally opened up for tendering by private providers and the colleges. In the main, the colleges will be competing with one another. We must be careful, therefore, to ensure that resources are not wasted by five or six colleges spending $50 000 each preparing tenders to bid against one another for no good purpose, when it is obvious that one college has the expertise in the particular area. The colleges are trying to find their niche markets. Consider, for example, the Central Metropolitan College deciding to provide one stop shopping for mining training - a fee for service area in which it can get resources; however, the South Metropolitan College and Kalgoorlie College have expertise in that area. We therefore need an adequate mechanism which will provide reasonable opportunities for growth for each of the colleges while not encouraging fruitless competition between them.

There are concerns about the overall model. Some of those concerns were raised by Hon Jim Scott last night. It was a 'funny' list of staff problems. People had been reallocated because of their seniority and not according to whom they were supposed to be looking after. A staff member whose area was pure mathematics, under this system, ended up trying to teach somebody literacy. English was his second language and the service was inferior. There was a conflict between those who were skilled at providing a service, and the staffing requirements of seniority. Short term employees went even if they had the better expertise to provide the service. The need to be responsive to the demands of the community was ignored.

We recognise that there are worthwhile goals to pursue and that there is a need to reform our TAFE system. However, we want the Minister to address our concerns and explain how these clauses and the regulations that are not here - I understand many things will be altered by regulation rather than by the clauses in the Bill - will satisfy us in relation to the model we are adopting and how they are capable of solving the problems that have become apparent in the last two years with the experimental operation of autonomous TAFE colleges. We have had the experiment and problems have arisen. We want to make sure that as this model is set in concrete with these clauses, the Minister takes adequate note of the experience and the problems of the last two years' de facto operation of the system and adjusts this model to solve some of these problems.

Hon JOHN HALDEN: I want clarification from the Minister about the prospective role of the State Training Board and why industry training councils will not have a legislative role. I am not sure why we will not have industry training councils. Why are these incorporated bodies not included in the Bill? Is it because they are too political or are focused too much on industrial relations issues? Have the ITCs not been successful in providing the necessary feedback to the existing State Training Board about training and curriculum requirements?

I understand the Minister has made it clear on a number of occasions that he wants the State Training Board to obtain advice from industry. I thought that was the role of the ITCs, which then reported to the State Training Board. The Minister said last night that he wanted the board to provide advice to him, after its having sought advice from the widest possible sector. Why not legislate for ITCs, in the knowledge that the board and the Minister will have an opportunity to consult with as wide a sector as possible in the community? What is the potential for duplication with the establishment of industry advisory bodies, as the Minister so quaintly described them? I know that the Minister recently reduced the number of ITCs from 21 to 14.

Hon N.F. Moore: Based on the Vickery report.

Hon JOHN HALDEN: It is a shame that the Minister did not accept all the recommendations in the Vickery report.

Hon N.F. Moore: I chose the ones I wanted.

Hon JOHN HALDEN: We know that, and that is why the Minister has so much power under this Bill. I support the reduction in the number of ITCs from 21 to 14. I thought it was a worthwhile move and it has proved reasonable. There is one exception in the printing industry, but that is a debate for another place and another time. The Minister has been marginally critical of the ITCs in this place and much more critical of them outside this place. How many complaints has the Minister received about ITCs? Are employer groups or employers falling over themselves to complain about the ITCs? Has the State Training Board complained that they are inefficient or are not adhering to the role for which they are funded? The Minister said last night that he wanted employers to be more involved in these matters. From my knowledge of ITCs there is considerable employer contribution.

Hon N.F. Moore: It varies.

Hon JOHN HALDEN: It is true that it varies from one group to the other. The Minister says he wants more involvement from one sector of the employment field, and I do not get an inner glow from his desire to remove this group.

Hon N.F. Moore: I would like them to be more involved in cases where they are not involved.

Hon JOHN HALDEN: Perhaps they could be included in the Bill.

Hon N.F. Moore: I could include in the Bill the Chamber of Commerce and Industry, the Chamber of Mines and Energy or any other organisation, but I do not intend to because it is not necessary.

Hon JOHN HALDEN: The State Training Board must work as effectively as possible. It is the peak body and it should be well informed about the needs of the employment market and the industrial sector in the broadest sense. The current system delivers that. I do not understand why it is not included in the legislation. When the Minister has responded to my queries, I may have a different view. At the moment I believe this legislation is more about ministerial whim than anything else. The Vickery report supported ITCs and the draft Bill in February 1995 included ITCs, but all of a sudden they have been removed. I do not understand why. The Minister has said it is because he does not want them.

Hon N.F. Moore: No, I said they did not need to be included.

Hon JOHN HALDEN: They have a role to play. The State Training Board can consult with ITCs, which can carry out specific tasks for the board. Their role under this system is reasonable and legitimate. So long as that role is broadly defined it will present no problems with the Corporations Law. I understand these organisations have their own constitutions and they are governed by their board's management. At the end of the day there is nothing to prevent the Minister from including a clause indicating how the State Training Board will interact with ITCs. It does not need to be the other way around. If the funding for the ITCs is continued they will continue to comply with the legislation. That is important for reasons that may concern the Minister in the future; that is, the ITCs are carrying out the functions that this Minister and this Parliament want them to do. However, they have no clear direction from the Parliament. It must be borne in mind that it is a grassroots organisation which has been collecting information. I have not heard any complaints about them but if there are any perhaps the Minister will table them or discuss the matter with the Committee. The State Training Board needs below it a clearly defined structure with those responsibilities.

Hon N.F. MOORE: Hon Cheryl Davenport made a number of comments and I acknowledge the reason she felt the need to make a slightly longer than normal speech on clause 1. She suggested that somehow or other statutory authorities are more accountable than Ministers. The truth is the opposite: Ministers are directly accountable to the Parliament for what they do, and statutory authorities are at arm's length. I recall Hon Joe Berinson often saying that he could not give answers to questions because they related to statutory corporations. Under the process of Westminster government no-one is more accountable than a Minister. To argue the contrary belies the fact. The State Employment and Skills Development Authority which will be abolished under this legislation is a statutory authority. That statutory authority and a government department were both trying to run the training system in Western Australia, but it did not work. They had different agendas and represented different interests. One was directly under the control of a Minister in the context of a department, and the other was at arm's length.

It was very difficult to coordinate the training agenda, and that was one reason for setting up the Vickery inquiry to consider how we might deal with the inherent conflict between SESDA and the then Department of Employment,

Vocational Education and Training. Out of that process came the proposition of a board which had an advisory function to determine the State's training needs, and for a department to be established which administered the State's interest in the training system. The process also determined that autonomous colleges would provide training on behalf of the State. It also contemplated non-government providers also being part of the training market. I would argue strongly in any forum that having a Minister running part of a government activity is far more accountable than a statutory authority could ever be.

Hon John Cowdell talked about transferring funds between colleges. We are looking at developing two areas, and the member got this point right: It is a matter of achieving the right balance between the needs of a central network and the State's overall strategic interests, and allowing maximum college autonomy at a local level to provide the service. Achieving the right balance is the difficult part, and we will not see how successful we have been until it is operating.

Some colleges will be more successful than others because of niche markets. It would be unfair if the successful colleges were to retain large profits and the less successful colleges scrape for money. If large discrepancies occur between the colleges, the Minister will have the power to transfer resources from one to another. It is fair to look at the colleges as part of a statewide network with maximum autonomy. The member argued about the need for autonomy and asked about the benefits involved. By giving the independent colleges the autonomy they now have, and by giving them a governing board to represent the interests of the community and industry they serve, they will be far more responsive to the needs of their clients.

For too long TAFE did not recognise it had clients. Traditionally TAFE delivered education and training on the basis of what it determined to be appropriate. The aim of this exercise is to turn that notion around so the delivery of training is based on the needs of the clients, not on what the colleges can deliver. For example, it is pointless to deliver vocational training where no demand for employment is evident. It is important to ensure that money is spent on training for occupations in demand. Independent or autonomous colleges which are close to the industry and community will ensure that the training delivered is needed by their communities.

Hon J.A. Scott: Who are the clients?

Hon N.F. MOORE: The clients are industry, community and individuals seeking training. If an individual wants to be trained to be a technician who is required in the community, and the college is not providing that training, a client's need is not being met. Clients will say to training providers, "You must provide what we need." For too long the TAFE system has operated on the basis of certain lecturers delivering certain programs; it said, "We will deliver them whether you need them or not."

The standard for curricula and the training are set by the Skills Standards and Accreditation Board, and under this legislation by the Training Accreditation Council. Also, they are accredited nationally as modules. No change will be made to the standard of curricula. The quality of delivery is another issue. All colleges are required to look at the quality assurance policy to ensure they deliver. Ultimately, I hope we can close the loop so that the board which determines state training needs, will have a role in ensuring that the training system has met that need and have an overriding interest in whether the training quality is being provided.

Hon J.A. Cowdell talked about the mix and balance between central direction and local autonomy. He expressed one of the reasons for the Bill taking so long to get here. I was criticised yesterday as it was claimed it arrived in the "dying days of the Parliament" - I wish they were.

Hon John Halden: We will not be here for too many more weeks.

Hon N.F. MOORE: Until the end of the year. "Dying days" suggests that Parliament will close tomorrow. However, it took time to achieve a reasonable balance between the needs of the current central system, the needs of the state economy, the needs of the unusual geography of Western Australia - the fact that people live in remote areas and training costs more to deliver - and the need to deliver more competition into the system. Achieving that balance has taken time.

When I spoke to many people in the early days of this process, a great divergence of views was expressed. Some said that the independent colleges should be closed and the system should be run from head office. Others said we should close the head office and give them all absolute autonomy. Two extreme views were expressed. We attempted to achieve a balance to meet the needs of Western Australia. Time will tell on that aspect.

Hon John Cowdell rightly referred to the colleges' commercial involvement, and some have been allowed to do some work in this area. However, they were not able to progress until they were assessed by a committee under the chairmanship of Mr Ian Kube to make sure that the colleges were ready for autonomy. All colleges were checked and processes assessed before they were able to move down the path of autonomy.

I am looking forward to Hon Jim Scott's providing me with the information on the cases to which he referred. Most members with a problem speak to my office straight away; they say, "I have a problem in Northam; how about sorting it out for me?" I have not heard from Hon Jim Scott regarding his long list of problems. It made a good speech but it did not help the circumstances he raised.

TAFE International will look after the overseas market. If every college in Western Australia were competing internationally, it would be counterproductive. TAFE International will be the organisation with the expertise to enter overseas markets and ensure that colleges can deliver the programs they offer. That proposal is better than everybody doing their own thing. Colleges will develop niche markets. We inherited neighbourhood TAFE colleges which were delivering every course imaginable. We have required them to specialise and we took automative courses out of Carine and moved them to Thornlie, for which we received a fair amount of criticism.

Hon John Halden: And rightly so. It was not good for kids in the northern suburbs, the most densely populated area, who are under age and cannot drive there.

Hon N.F. MOORE: Kids in the northern suburbs are prepared to go to UWA, Murdoch and Curtin, or wherever to -

Hon John Halden: We are talking about 16 year olds.

Hon N.F. MOORE: We are not talking about 16 year olds; they go to school.

Hon John Halden: That is how silly you are!

Hon N.F. MOORE: They go to school, not TAFE colleges.

Hon John Halden: You're beyond help. Do 16 year olds not go to TAFE?

Hon N.F. MOORE: That used to happen. Some, as part of their school program, go to TAFE - I think it should happen more often, actually.

Hon John Halden: Some go there as part their apprenticeship or traineeship.

Hon N.F. MOORE: It is necessary for colleges to specialise in certain areas; otherwise, we are on the well worn path of every college having a tiny component of a range of courses which are not competitive with private sector training providers.

[Questions without notice taken.]

Hon N.F. MOORE: I had reached the stage of advising Hon John Cowdell that the regulations were in the process of being prepared and would be brought down as quickly as possible.

Hon John Halden raised the question he raised in the second reading debate of the relationship between the industry training councils and the State Training Board. He asked whether the exclusion of the ITCs from the legislation was because they are too political. The answer is no. He also asked whether their exclusion was because they are too involved in industrial relations and, again, the answer is no. He then asked whether their exclusion was because they are not successful and the answer to that question also is no. The reason they are not specifically included in the legislation is that it is not necessary for them to be specifically included.

I need to go back to the model we are putting in place and to describe the State Training Board. If members refer to the clauses of the Bill which relate to the State Training Board they will note that its basic task is to put together the state training profile which is effectively a collection of the training needs of industry across this State. On page 4 of the Bill the definition of "State Training Profile" reads -

> . . . means a comprehensive plan for the provision of vocational education and training in the State;

The state training profile is put together by the State Training Board on the basis of the advice it receives. The practice in the past has been that the ITC network is the primary, and in many cases, the only source of advice given to the State Training Board concerning the training needs of industry. It is not acceptable in this day and age to rely on one source of information. While I am the first to acknowledge that the ITCs will remain a primary source of advice, they should not be the only source of advice. For that reason, a definition of "industry training advisory body" has been included in the Bill.

Hon John Halden interjected.

Hon N.F. MOORE: That is exactly right. Under the proposition I am putting in place they will be getting further advice.

Hon John Halden: They have been able to do that.

Hon N.F. MOORE: Not under the State Employment and Skills Development Authority legislation which will be repealed by this Bill. This Bill provides for the new way of doing things which has been in place for a short while under the interim State Training Board. An industry training body is any industry body which is an association, irrespective of whether it is incorporated, capable of providing advice to the State Training Board. Among those bodies are the ITCs and they will continue to provide advice. I envisage a situation where the State Training Board will go to as many sources of information it can find to make sure the advice it is providing through the state training profile is as accurate as is humanly possible. Quite frankly, the ITCs are not the only source of knowledge and there is no need for them to be explicitly mentioned in the legislation as opposed to any other source of advice.

A very good source of information for training needs in the mining industry is the Chamber of Minerals and Energy of Western Australia; in the building industry it is the Builders Labourers Federation. I would not include either the BLF or the Chamber of Minerals and Energy in the Bill as a legislative source of advice. For the same reason is not necessary to include the ITC network in the Bill.

I continue to make the point that if, as some people suggest, I wanted to get rid of the ITC network I would have already done so. It would have been easy to do that by simply cutting off state funds. Some councils would have survived because they have industry support and obtain commonwealth funding. However, their main source of revenue is the State Government. This Government contributes more to ITCs than any other State and it could have simply stopped paying money to the ITCs and they would have shrivelled on the vine. That is not this Government's intention; it is its intention to continue to fund them. I have given that assurance to the people who have approached me on this matter. I have clearly demonstrated that I consider them to be a very significant source of information, but they do not need to be separated out and identified as the only organisation or body which is contained within the legislation.

I am trying to point out that the State Training Board can access a huge number of sources of advice. I have told them openly that I want them to travel around Western Australia to talk to interest groups, community groups, colleges and anybody who has any view at all worth hearing on the state training profile. There is no intention that it will be anti-union. If Hon John Halden thinks it will be anti-union he would be arguing that industry training councils represent the union's position, which they should not. It is not an anti-union position or an anti-ITC position. It is an acceptance of the reality that advice can come from many sources. It would be wrong simply to pick out one source of advice and include that in the Bill to the exclusion of all others. That would say that source of information was more important than the others, when it was not; it would be equally as important. It is not an anti-ITC position. It is a recognition that the State Training Board will be required, in fact, urged to get out beyond the ITC network to get as much advice as it can on the state training profile. That profile is vital to the success of this model. If we do not get a good profile which represents, in effect, the people power planning for Western Australian training, what we deliver at the end of the day will not meet the needs of industry or clients of the system.

I refer also to the comments made by Hon John Halden on a press release put out by the Victorian Minister for Training at the Australian National Training Authority Ministerial Council meeting in Canberra last week. That press release was put out on that Minister's volition. He did not get my approval.

Hon John Halden: I did not suggest he did.

Hon N.F. MOORE: I told him that I did not support what he was seeking to do. I said there was good reason to review the national industry training advisory bodies. However, the state bodies would remain. I was interested in a review of the national ITABs, because of the duplication that takes place at the national and state levels. We should

work towards reducing the existing duplication. A view put forward by one Minister for which there was some general agreement among Ministers was if, as part of the review of the national ITABs, it was thought they could be dispensed with, it would be appropriate for one of the state ITCs to become the national ITC for an industry or occupation. That would overcome the duplication that currently exists. Members may not be aware that there are national and state industry training councils for the same industries. That raises concerns about duplication.

Hon John Halden: It is a bit like states' rights.

Hon N.F. MOORE: I am talking about plain, straight out efficiency and avoidance of duplication. If Hon John Halden talks to industry about the duplication of ITCs he will be given countless examples of where the system is bogged down. That is unnecessary. If I thought there were any merit in national rather than state ITCs I would look at that. However, with the experience and information I have, I cannot find an argument for that.

Hon John Halden: I would not disagree with that.

Hon N.F. MOORE: All that came out of that meeting was a decision by Ministers to look at ongoing duplication. There was no debate.

Hon John Halden: The preferred options are already known.

Hon N.F. MOORE: They are not. No decision has been made about the future of national or state ITABs. As far as I am concerned, as the Minister responsible for this legislation and providing funds for the ITCs in Western Australia, they will continue to exist. If the member opposite is the Minister in the future and he gets rid of them that is his business; I am telling the member what I will do. Hon John Halden can relay that message. If I happen to be the Minister after the next election and I get rid of them, the member can say, “That bloke just broke his word; it is not worth two bob”. I would be distressed about that, because it is not my intention to do anything other than to occasionally say to some of them, "Get your act together. Your profiles are not good enough, so stop fighting each other and getting into demarcation disputes which slow down the approval of courses". I will draw attention to a recent dispute in the accreditation of courses in the shipbuilding industry at Henderson. A company wanted a module approved by the Skills Standards and Accreditation Board. A demarcation dispute between two ITCs held up the process. They were desperate to get the accreditation but they had to go through a convoluted process of ITC versus ITC through the SSAB process, which is convoluted, but will be hurried up by this legislation. The employers were tearing out their hair, because they had skills shortages. They were trying to get people qualified in a prefabrication trade. Everything is not hunky-dory about the way ITCs operate. In future I will expect that they will be, at least, more flexible and accountable for what they do.

Clause put and a division taken with the following result -

Ayes (14)

Hon George Cash	Hon P.R. Lightfoot	Hon M.D. Nixon
Hon E.J. Charlton	Hon P.H. Lockyer	Hon B.M. Scott
Hon M.J. Criddle	Hon I.D. MacLean	Hon W.N. Stretch
Hon Max Evans	Hon Murray Montgomery	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon N.F. Moore	

Noes (11)

Hon Kim Chance	Hon John Halden	Hon Tom Stephens
Hon J.A. Cowdell	Hon A.J.G. MacTiernan	Hon Bob Thomas
Hon Cheryl Davenport	Hon Mark Nevill	Hon Tom Helm *(Teller)*
Hon N.D. Griffiths	Hon J.A. Scott	

Pairs

Hon Derrick Tomlinson	Hon Doug Wenn
Hon B.K. Donaldson	Hon Graham Edwards
Hon Barry House	Hon Val Ferguson

Clause thus passed.

Clause 2: Commencement -

Hon JOHN HALDEN: Can the Minister advise why it is necessary for some provisions in this Bill to come into effect on different dates? Surely the proposed sections relating to the training board, the accreditation board and the colleges could all be proclaimed on the same set date. I see little need for this provision to be in the Bill. Perhaps the Minister can advise why the provision is necessary.

Hon N.F. MOORE: It is intended to run the Industrial Training Act, as amended by this Bill, for some time to facilitate changes at the national level. Once those interim arrangements have been put in place, it is intended that the Industrial Training Act be repealed. It is not possible to run at the same time two pieces of legislation that relate to the same issue, but which are different from each other. We will maintain the Industrial Training Act, as amended, during the interim period to facilitate the changes to the national training system. When we have been able to put in place the changes that will occur and remove the need for the Industrial Training Act, it will be repealed.

Hon JOHN HALDEN: I need some clarification on this issue. I thought this Bill repealed the Industrial Training Act at some point.

Hon N.F. Moore: When it is proclaimed.

Hon JOHN HALDEN: If we are amending the Industrial Training Act, why would we not repeal it at some point in time with this legislation? Why would we not repeal the other piece of legislation in the future?

Hon N.F. MOORE: We are making plans for the future of vocational education and training in Western Australia. We are bringing in a new Bill which sets up the system. There are amendments to the Industrial Training Act which form part of schedule 3 which are interim measures until such time as it is no longer necessary to have that Act in place. Rather than coming back to Parliament to repeal that Act ultimately, once the interim processes have been completed that Act will automatically be repealed by proclamation.

Hon JOHN HALDEN: I refer to the amendments to the Industrial Training Act. I raised those matters specifically during my speech in the second reading debate. I have considerable concern about that issue. Clause 17 of the schedule states -

> Section 37D(3) of the principal Act is amended by deleting ", but shall not provide for training in an apprenticeship trade or an industrial training trade".

We are about to do away with trades and ultimately apprenticeships by virtue of the training component. I understand the concept of compartmentalisation of training, and I have no difficulty with that; however, in terms of a broad based well-trained workforce, there is nothing wrong with having the current system. There can be compartments for specific training or apprenticeships; for example, welders of pipelines undertake specific modular training. Some of these people can also have a qualification in welding. Sometimes it does not happen in that order, sometimes it happens in reverse. However, it is absolute nonsense to do away with broad based four-year apprenticeships. They guarantee portability across an array of sectors.

We are creating a very narrowly trained person who is the captive of the employer. It is the American system, a system not directed in any way to allowing a person to be productive in one area and then move on to another area and take up a job. Because this training is shorter, it is cheaper; however, it does not provide for people who throughout their lives must work in a whole range of areas. It does not allow them to leave an employer under whatever circumstances and feel confident about doing another job in a similar area, as is the case currently.

In the United States at the moment people who work on the production lines in the car industry can be compartmentalised. If they fall out with the employer, they will not be working for someone in the same industry because quite deliberately they will be blackballed by the company. People in that country are trained to do only a specific, narrow job on a car production line. It might be quite highly skilled, but that is all they are trained to do. If people have a disagreement with their employer and decide to leave or are asked to leave, they have had it. They will not work in the Ford factory, the GMH factory or the Chrysler factory because they will be blackballed. Although it is one of the great faults of the American system, the greatest fault is that it does not provide for the American nation to get the most productive workers early in their working lives; allow them to move around the

system to wherever the demand exists, to fill that demand; allow these people to make choices about what trades pay them best or what job they prefer in terms of their environment.

This Bill is about cutting back on training by compartmentalising it. It is about providing cheaper training - I do not mean that offensively. Because the training is shorter, I suppose it can be cheaper. We do not need narrow based skilled workers. We want a system of broad based skilled workers. We have been through - I am sure we all know about this -

The CHAIRMAN: Order! I wonder whether the member could enlighten the Committee about how his comments relate to the clause on commencement.

Hon JOHN HALDEN: It is quite simple. The commencement clause refers to this Bill being proclaimed on certain days. The Minister has identified that the Industrial Training Act will be proclaimed on a different day. That is referred to in schedule 3. I am saying that before we allow theses proposed sections to be proclaimed separately, we should understand very clearly what we are doing. That is a reasonable thing to do. Why should it be done in two hits, or perhaps more, rather than one? We should look at that issue. I concede it has a little to do with the policy, and I might be transgressing a little on that issue. However, if the intention of the Government is to do away with some legislation - that is the effect of that part of the schedule - we should do that in one hit. I have not heard any reason that all of the Bill should not be proclaimed on one day. Let us be very clear about what the Government is doing. The Government should introduce the legislation in one hit so that we all know that it is policy. Prior to any event that might occur in February, we would like the Government to be very clear with the community about what it will do. I think it will do away with apprenticeships, and I am quite open about that.

Hon N.F. Moore: I have one word before we go to dinner. We are not getting rid of apprenticeships.

Sitting suspended from 6.00 to 7.30 pm

Hon N.F. MOORE: It is not the intention of this or any other Government that I know of to get rid of apprenticeships. However, the environment for training across Australia and throughout the world is changing, as is the original concept of apprenticeships. The Opposition needs to recognise that there are new ways of conducting training. For example, competency based training is about giving people qualifications when they have proved their competency, not when they have undergone a period of training. People who are faster at learning may receive their qualifications more quickly than people who are not as fast. The idea is that once a person has achieved a competency, he will receive a qualification. That will allow people to accelerate the process of training, if necessary. It will also recognise prior learning, which is now part of the assessment process. If a person already has some skills which can be assessed and accredited, that will be counted towards a particular skill or qualification that he is seeking to attain. Those two changes will mean that the nature of training and the time served doing it can be quite different now. Similarly, it will be possible for a person to do a traineeship in a particular area in, say, the first and second years, and move into an apprenticeship in the third year and get credit for the work that was done during that traineeship.

We want to ensure that we can deliver the flexibility that is necessary to enable people to gain skills that are appropriate for the jobs that will be available in the future. The old trade based apprenticeship system is still an important part of our training process, but it is out of date to suggest that everybody must do a four or five year apprenticeship. The President told me during the dinner suspension that he did a seven year apprenticeship in electrical engineering. That is no longer necessary. Things have changed and will continue to change. That is why I said to Hon John Halden last night that I cannot say that in four years things will not be different, because they will be, and I hope they will be, because we need to ensure the training that we provide is relevant to the changing nature of the workplace and industry.

Apprenticeships are in a fairly narrow range of trades, and the growth in employment is in many other occupations which do not have apprenticeships under the old system, and people get the knowledge that they need through TAFE courses, through traineeships, and in a variety of other ways. This is what this Bill is all about. We have decided that the Industrial Training Act as amended will remain in place for a period of time to allow some of the changes that have taken place on the national scene and within the overall ambit of this legislation to be put into place and be locked away before we go to the next step of repealing that Act. This is the reason for the variation in the proclamation dates for different parts of this Bill.

I will be happy to provide a briefing for any member of the Opposition who has not had a chance to - I will not say understand - give a bit of thought to this matter, and also to take them to some industries. Today I visited Westrac

Equipment Pty Ltd, which is a big supplier of Caterpillar machinery. Westrac is very frustrated with the red tape and bureaucracy that is tied up with the training system. It is developing its own training and curriculum to give its employees a range of skills within that industry, because a wide range of skills is involved in building and maintaining heavy machinery. It wants to develop training modules and programs which are appropriate to that industry. However, I point out to Hon John Halden that is not to say the employees will be straightjacketed; they will be very valuable employees in the heavy machinery industry. Westrac has a lot of trouble at the moment reconciling its needs with some of the courses that are currently being provided by the TAFE colleges, which are, by necessity, heavily oriented towards the automotive side of things and not so much towards heavy machinery.

Hon Kim Chance: How will the new Act affect the portability of those modules?

Hon N.F. MOORE: The employees will come out with an apprenticeship, but that apprenticeship will be relevant to the whole world of Caterpillar. Caterpillar is a huge company which operates all over the world, and anyone with a qualification through the training program that Westrac is putting in place will have enormous job opportunities for the rest of his life and will be in great demand. One of the reasons that Westrac has set up its own training program is that skills shortages are developing in that industry.

Hon Kim Chance: What if those trainees want to work with a GM diesel?

Hon N.F. MOORE: There will be enough generic training to ensure it is transportable from a Caterpillar to other types of tractors. They will have the particular skills for Caterpillar, but because heavy machinery is pretty much identical from company to company, they will not be simply Caterpillar people, with a very narrow vision, for the rest of their lives. That is not the intention. Westrac wants people who are trained to work on heavy machinery, not people who come out of a TAFE college and know only how to fix a Holden car, because that is where most of its work is oriented. We are not in the business of getting rid of apprenticeships. We are in the business of making sure that training is relevant and appropriate to the needs of industry and its employees, who need skills that are portable and relevant to the jobs that will be created in the future.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Objects -

Hon JOHN HALDEN: Clause 4(d) refers to the rest of the Bill. There seems to be little in the Bill which in any way requires this objective. There seems to be no test standard or benchmark to establish how this objective might be achieved. It seems a very noble set of words but there seems little in the Bill that would promote it. Exactly the same words appear in clause 37, but again there seems to be little in the Bill to reflect that aspiration. Will the Minister correct me if I am wrong or explain how that objective will be achieved?

Hon KIM CHANCE: I want first to congratulate the Government for including the objectives of the Bill in the legislation. We are increasingly seeing objectives included at an early stage in the legislation, which is a very good thing to do and something we should encourage. If the Minister feels we cannot find anything good to say about the Bill, that is one thing. My interest is also in clause 4(d) and is very similar to that expressed by the Leader of the Opposition. Without asking the Minister to comment on the specific report of the consultants which I mentioned during the second reading debate last night, will he, in the context of answering the question of the Leader of the Opposition, indicate to me whether areas such as those described in the consultant's report which I quoted last night might be better met as a consequence of this Bill? I raise that matter in respect of pastoral training in the Kimberley. As a result of this Bill will we be given greater flexibility and capacity to deliver training of the type recommended in the consultant's report and is that what subclause (d) is about?

Hon N.F. MOORE: The objective outlined is to promote equality of opportunity when undertaking vocational education and training. I thought this was self-explanatory. Members obviously want me to explain how that will happen. I do not propose to legislate for that. We have enough laws which refer to such issues and apply to everybody in the State in any event.

Hon Kim Chance: The legislation cannot enable it.

Hon N.F. MOORE: We have a document which I commend to the member. It contains an awful photograph of me, which is probably one of the reasons why the printing was delayed. It refers to a quality system for vocational

education and training in Western Australia. It is a glossy brochure full of very important information on a quality training system. Western Australia leads Australia in quality assurance in the TAFE system. The document outlines what it is all about. Part of the whole quality system that has been put into place in Western Australia is the need for training to acknowledge equal opportunity and equity issues. Clause 37(d) of the Bill refers to the function of the colleges to promote equality of opportunity in the undertaking of vocational education and training as well. To take into account equality of opportunity issues is not just an objective of the Bill but a function of the colleges under the system. It is very much wrapped up in this quality system we are putting in place in Western Australia. Instead of legislating to say that an equal number of places shall be provided for men and women, 5 per cent for Aboriginal people or whatever, we are saying to the colleges and to the system that equity is a very important part of the training system. We see education and training as vehicles for equity. We have to use them to make sure that people can improve their circumstances, if necessary. Education and training are vehicles for giving people a better chance to achieve well in society. That is fundamental to the quality system and the colleges' functions as outlined in the Bill.

In respect of pastoral training in rural areas, I will have to re-read Hon Kim Chance's speech and remind myself of the point.

Hon Kim Chance interjected.

Hon N.F. MOORE: That is a good idea. Perhaps we could sit down and go through the speech together.

Hon CHERYL DAVENPORT: Subclause (e) refers to the objective to provide for research and development for the purposes of vocational education and training. I am fairly reliably informed that almost no systematic research has been conducted within TAFE for quite a number of years, especially in regard to those key issues I mentioned this afternoon of student attrition and retention rates, the adequacy of predicting on-course success, and the benefits of competency based training for students, graduates, industry and TAFE. Will research be contracted out or will a research unit be set up in the TAFE system?

Hon N.F. MOORE: There is capacity for both. The member is quite right that within TAFE not a great deal of research and development has been undertaken, I suspect ever.

Hon Cheryl Davenport: Certainly not in the last four or five years.

Hon N.F. MOORE: To engage in research and development has not really been a function of the TAFE system. Universities on the other hand are very much geared to research - far too much in some cases.

Hon A.J.G. MacTiernan interjected.

Hon Cheryl Davenport: We have the exact opposite here, where there seems to be none.

Hon N.F. MOORE: I agree with the member. Hon Alannah MacTiernan had to throw in an unfortunate comment. That is not what I was saying. Universities should spend more time teaching people. They spend a lot of time conducting research and very little time on good teaching; they need to do both.

Hon Kim Chance: You would be interested in what the Standing Committee on Government Agencies is doing at the moment.

Hon N.F. MOORE: I am always interested in the Government Agencies Committee. I agree that the Bill allows for the TAFE system to become involved in research and development, but on vocational education and training. It must be reasonably focused on what sort of research and development we are talking about. For example, I do not have in mind the Fleet Street aquaculture centre, which is part of the South Metropolitan College, where it is suggested that we should be conducting research into aquaculture as part of a TAFE process.

Hon Kim Chance: It is a superb facility.

Hon N.F. MOORE: It is brilliant, but such research and development must be conducted by the Fisheries Department or a similar organisation.

Hon John Halden: No, not Fisheries; it would grind to a halt.

Hon N.F. MOORE: TAFE is not into that sort of research and development. It is into training people, and its research and development must be about training people. Coincidental to that it could work with industry which might conduct the research and development. I hope we will see colleges taking up this challenge and looking closely at what resources they can put into research and development for providing better training, which is what this objective is all about.

Hon CHERYL DAVENPORT: People within the TAFE system have felt for a long time that some internal research is required into student performance rating. I was not referring to the likes of the aquaculture program. I was referring to the measuring and analysis of the performance of students and teaching within the TAFE system.

Hon TOM HELM: Under paragraph (a) the object of the Bill is to establish a state training system for the effective and efficient provision of vocational education and training to meet the immediate and future needs of industry and the community. That relates to the argument we used in the second reading debate. Although issues need to be addressed and changes are necessary, I am advised that the changes proposed by the Minister are negative rather than beneficial. From what direction is the requirement to change coming? Is it dissatisfaction with industry training councils, for example? We have evidence to suggest that both the union-employee representatives and employer representatives on various councils, as well as those who deal with councils, are quite satisfied with that structure and are reluctant to see it change. Although they have been advised of the changes, in some cases they are concerned that the changes do not reflect their concern. We would like to see some documentary evidence to match our documented information.

The Minister tried to reassure the Leader of the Opposition that the training programs would not be singular in their approach. He mentioned the Westrac Equipment Pty Ltd approach. Like me, he acknowledged that the major employer of both Karratha and Hedland college communities have a major say in training and how it is delivered. Those industries contribute a great deal of both capital and facilities to enhance training and make sure the colleges provide the type of training they require for their industries. I am sure that will continue, and it is always welcome. The Government plays a role as part of a joint venture in helping to provide facilities for major employers to enhance that training program. We hope that will carry over to TAFE.

I would like more assurance that this will not encourage that narrow industry specific training which results in recipients having non-portable skills. It could create an ideal employee for Westrac, but someone who is not much use to a company such as A Goninan and Co. Limited which may require similar trade skills. An employee trained to Westrac's specifications may not be employable in that context in another industry.

The charter of the college councils requires them to look after equity issues. As is Hon Kim Chance, I am concerned that provision of education and training in Aboriginal communities is sadly lacking. This Minister has a proud record of providing education and training to Aboriginal communities, particularly through Pundulmurra College and in other areas. Will those institutions charged with that duty be given specific funding aimed at addressing equity issues in our community? It is necessary for not only the Aboriginal community, but also additional training for women, in addition to the needs of major employers within the regional areas.

Hon N.F. MOORE: I tried to explain in the second reading speech and in the response to the second reading debate why the changes are needed. This Bill is part of an ongoing evolutionary process for training. We are at a stage in that evolution where new legislation is necessary. The current training system is administered under the Education Act, the Colleges Act and the Industrial Training Act which looks after apprentices. Training is administered under a range of legislation and we are bringing it together under one Act. That means that once and for all vocational education and training will have their own piece of legislation covering the education and training process in Western Australia. The main push for change has come from people who do not have jobs, whose skills are outdated, and who need a more flexible training process which will allow them to get the skills they need; and from industry which says that people's skills are out of date and that the TAFE colleges in some cases do not have the ability to provide the training they need, and that the nature of work is changing so quickly that the training system is not keeping up with it. We are trying to implement a process with minimal controls over it which, to a large extent - I hate to say this, because I know the effect it will have on members opposite - will allow the market to have some effect on training, but not to control it. It will not be a totally free market, but will allow market forces to have a say about what training is provided.

Hon Tom Helm: That happens in the north now doesn't it?

Hon N.F. MOORE: To a certain extent.

Hon Kim Chance: We are not frightened of the market.

Hon N.F. MOORE: I know Hon Kim Chance is not concerned. Some people go pale when we talk about the market.

Hon John Halden: We are only frightened of the market when we know it is inefficient.

Hon N.F. MOORE: I agree. That is why I went to some length to explain last night that the Government is talking about a controlled market. If I let the market have open slather in Western Australia, neither Karratha nor Pundulmurra would survive.

Hon Tom Helm: The Minister said that the training councils and other bodies suggest that there is a need for change. We have documented evidence that people are saying that they are satisfied with the system as it is now and that they are concerned about the changes. Can the Minister provide documented evidence to say that what he is proposing is acceptable?

Hon N.F. MOORE: I can provide the Vickery report now. When I became the Minister I said that I inherited a training system that had problems, so I set up the Vickery inquiry to review the delivery of training and education, not so much to examine the nitty-gritty of classroom activities, but how we structure the administration of education and training. Broadly speaking, apart from some variation which we did not want to go along with, the recommendations of the review are what we are putting in place now. That is documentary evidence. The Vickery review took evidence from a range of people. Members opposite do not like McCarrey, but he said the same thing.

Hon John Halden: He said Vickery was doing the report.

Hon N.F. MOORE: His fundamental conclusions were along the same lines. He came to the conclusion that the TAFE system needed to be changed.

It is being changed. I find this extraordinary. I am arguing for change when I am supposed to be a conservative and the member is supposed to be radical and he is telling us that things should remain as they are. The most conservative people these days are people who belong to unions and those who sit opposite, no matter who they are. I do not want to continue to argue about the principle of the Bill, which is what the member asked me to do.

I have talked about straitjacket training. I believe we are trying to give people skills which are relevant to the modern workplace, so that they have flexibility to do the jobs required of them and have the capacity to move from place to place. We have in Australia a qualifications framework. Any qualification is part of that framework. It is portable across Australia. Once a worker gets a qualification, it is portable. For example, an Automotive .Tradesman (Heavy Machinery) is a national portable qualification.

I accept the member's comments about having to do something in the Aboriginal community area. There is a long way to go. I do not know whether any additional money is available for Aboriginal training at a state level. However, the Commonwealth has injected money for the equity programs that it has put in place over the years. I hope that is maintained. At the end of the day the colleges will be in the business of acquiring money to provide training that has been demonstrated to be necessary. We are not training people for the sake of training them. Pundulmurra, like every other college, will get into the market and say it wants to provide training for those people because it has identified that as a serious need, and the funds will start to flow for that training. Training among Aboriginal people is vital. It is a tragedy that we still have the problems we have in training Aboriginal people for the sorts of jobs that they should able to do to give them self-esteem.

Hon Kim Chance: In part that is because we have not made that training relevant, which is what that report I quoted from last night was about.

Hon N.F. MOORE: I think the member is right. However, we must also understand that the training that will be provided will relate to their needs and also to the modern Australian society of which they are now members. I think it is a bit simplistic to suggest that we provide training for Aboriginal people to ride horses or round up cattle.

Hon Kim Chance: It is management.

Hon N.F. MOORE: That is fair enough; I do not disagree with that. That will happen because we have a college in the Kimberley to provide training for people in the Kimberley and to service the industries in the Kimberley. We did not have that three years ago.

Clause put and passed.

Clause 5: Interpretation -

Hon JOHN HALDEN: I will not entertain the Minister with another argument about industry training advisory bodies. I want to deal with some specifics about the interpretations/definitions in this clause. "Public training provider" refers to a college or other vocational education and training institution. This Bill does not in any way set up anything else other than a college. How could we have "other vocational education and training institutions"? The Bill does not establish any other public college.

Hon N.F. Moore: The definition of "other vocational education and training institutions" above that refers to a vocational education and training institution established under clause 57(2).

Hon JOHN HALDEN: What is an "other"?

Hon N.F. Moore: It could be a training centre alongside the Collie power station for a particular purpose or the one in Henderson. Under part 6, the Minister may establish these for particular purposes.

Hon Kim Chance: Does that include the TAFE facilities attached to the Merredin Senior High School, for example?

Hon N.F. Moore: That is part of C.Y. O'Connor. I will have to check that.

Hon JOHN HALDEN: I understand what the Minister said. Maybe the Collie power station is one example; however, Henderson is attached to the South Metropolitan College.

Hon N.F. Moore: It is, but it does not have to be.

Hon JOHN HALDEN: How would the Minister establish it under the Act?

Hon N.F. Moore: Under section 57 of part 6, the Minister may set up an institution for a particular purpose. That would be rare.

Hon JOHN HALDEN: Page 4 of the interpretations refers to "resource agreement". The interpretation above it refers to "registered training provider". Why would that proviso not be included? My reading of it is that a resources agreement can be entered into with a training provider or anybody not necessarily registered. There seems to be a necessity for a resources agreement to be with a registered training provider, not with anybody who might be considered in some way a training provider.

Hon N.F. Moore: The member should look under the definition of "training provider". Secondary schools will not become registered training providers but they are training providers.

Hon JOHN HALDEN: It is becoming clear. This Bill refers also to the provision of technical and further education in secondary education and at universities. Is there a necessity for a definition of that to be provided so that it is clear? If it is not included why has it not been included?

Hon N.F. Moore: There is a definition for "vocational education and training".

Hon JOHN HALDEN: The Bill refers to secondary education and to universities. I do not have a problem with that. However, that should be defined so it is clear for the purpose of expending money. Is it secondary education, private-public, or as defined in the Education Act? That clause contains the phrase "which does not operate for the purpose of private gain by its members". I remember when we debated the University of Notre Dame Australia Bill that a far better phrase was used for the same purpose. I have no problem with the provision but the language could be clearer. There is a quaintness about the phrase. I commented that it was very reasonable and it was made clear that, although the institution was a non-government one, it would not in any way gain profit for anybody else.

Hon N.F. MOORE: Vocational education and training in schools and universities is defined in clause 5. Effectively the levels of education are preprimary, primary, secondary, vocational education and training, and higher education at universities. The Government is seeking to identify vocational education and training within the context of the whole ambit of learning institutions. If the Minister for Education and the Minister for Employment and Training agree, it is the intention that funding for vocational education and training can be used in secondary schools and

universities provided the courses are VET courses. It is interesting that some universities seeking more students are now moving into VET courses, and some TAFE colleges are trying to get into degree courses. There is no longer a sharp delineation between the institutions. Also, increasingly VET courses are being run in secondary schools. For example, the Swan View Senior High School and Midland College of TAFE have a course for years 11 and 12 students, whereby in each week the students spend two days at school, two days at TAFE and one day in the community working for a company.

Hon Kim Chance: I was talking about that in Merredin.

Hon N.F. MOORE: Yes, that is an example I have kept a close watch on. It is a very good way to introduce young people to vocational education and training at an earlier age. When they ultimately move to an apprenticeship or whatever qualification they are seeking, they get credit for any work done in years 11 and 12. This clause allows that to happen in secondary schools and universities, with the funding coming from the VET bucket of money.

With respect to loans to not for profit private training providers, the intent is the same as that which applies to the University of Notre Dame Australia. The Government has made provision for the private school sector, from kindergarten to year 12, the VET sector and the higher education sector to access low interest loans for capital works. It means the private education and training sector is treated in the same way from kindergarten to PhD level. I do not know whether the wording could be improved upon but it is intended, for example, that private gain should relate more to individual people making money. A not for profit organisation might make some gain but it is ploughed back into the college. It is not for profit for the proprietors of the college, and that is why it is worded in that way. I will look at the University of Notre Dame Australia legislation. The wording may be quaint, but I do not think it detracts in any way from the intention of the legislation.

Hon John Halden: I did not mean it offensively.

Clause put and passed.

Clause 6: Vocational education and training provided by a secondary school or university -

Hon JOHN HALDEN: With regard to funding for VET, particularly commonwealth funding, I am concerned that at some point in the future this funding - which the Minister said a moment ago is separate funding - could be diminished in that sector and the funds hived into secondary or tertiary education. That would result in no increase in funding for the whole area, but a higher proportion of the money would go to the other sectors. There is potential for smart tricks to be played by a Commonwealth Government, of either persuasion, that could eventually be to the detriment of this sector. Does the Minister consider this Bill to be tight enough to ensure money from this sector is not transferred to the adjoining sectors to prop them up, but without providing any more money in the total package for education?

Hon N.F. MOORE: I understand the concern. The Education budget is in competition with the Health budget, which is in competition with the Transport budget, and so on across the board.

Hon John Halden: I was not talking about the State.

Hon N.F. MOORE: Wherever a heap of money is divided among people with competing interests, they all compete for the money. Within the education and training sector, from primary through to PhD levels, there is competition for the education dollars and that will continue to be the case. This Bill will allow the Minister in charge of vocational education and training to have control over whether the funds from that bucket of money can be spent in universities or secondary schools. It gives a significant amount of authority which does not exist at present. It provides a fair amount of legislative control about how the money is spent, and it is better than not having the power because people simply get into the queue and whoever shouts the loudest and is the most aggressive or persuasive gets the most money. That is often how the allocation of funds works even though the needs may not be totally in line with the supply of money. There is no shortage of enthusiasm within the State Government and the Federal Government for ensuring that this sector of education and training gets its fair share. Hon John Cowdell mentioned earlier that the previous Federal Government put a lot more money into training than had been the case in the past, but the States reduced their contribution to complement the additional funds from the Commonwealth. That is why the maintenance of effort requirement was part of the ANTA agreement, so that the States could not get the growth funds from the Commonwealth and use that money instead of their own money. That is now in place and I suspect it will be in place for a while. I do not share the member's concerns.

Clause put and passed.

Clause 7: Minister a body corporate -

Hon JOHN HALDEN: Why it is necessary for the Minister to be a corporate body?

Hon N.F. MOORE: I have tried to explain that it is a very accountable role for a Minister to be a corporate body. The Minister is responsible to Parliament and with the powers provided under this Bill he is required to do a range of things to manage the system. It was deemed appropriate that that status be accorded the Minister in the context of what he is required to do in administering the State's interest in the vocational education and training system. SESDA was a body corporate under the SESDA legislation, and similar status will be accorded to the Minister under the new legislation.

Hon JOHN HALDEN: Will the Minister as a body corporate enjoy the shield of the Crown?

Hon N.F. MOORE: The advice is that it is a standard provision as found in legislation generally. I will double-check the matter and let the member know.

Hon JOHN HALDEN: I return to the point I raised earlier about the body corporate and the Minster's relationship to Parliament. Can the Minister explain how as a body corporate he is more accountable to Parliament than he is as a Minister?

Hon N.F. MOORE: I guess there is no variation in the level of accountability. A Minister must respond to questions put to him in Parliament and he is responsible to Parliament for what he does. Being a body corporate enables him to do certain things in administration in Western Australia. It was decided that the Minister should be a body corporate for the purpose of running the system.

Hon JOHN HALDEN: The Minister said earlier that in relation to Parliament there was no variation. He also said that he would be able to manage the system better by being a body corporate. How can he better manage the system as a Minister-body corporate rather than as a Minister alone?

Hon N.F. MOORE: As a body corporate the Minister can enter into contractual arrangements, and that is considered to be a significant part of the process we are entering into.

Hon John Halden: I understand that that is an advantage.

Hon N.F. MOORE: The department is not a body corporate.

Hon JOHN HALDEN: Clearly, departments in which the Minister is not a body corporate enter into contracts. How do they do that if the Minister is not a body corporate?

Hon N.F. Moore: I am quite sure that they do not.

Hon JOHN HALDEN: Prior to recent history, enormous amounts of legislation dealt with the creation of departments. I think the Minister for Health is not a body corporate with the Health Department. How does the Health Department-Minister, or that organisation, enter into contracts? Again, why is it necessary for the Minister to be a body corporate? Until 1985, or thereabouts, Ministers were not body corporates, yet the State managed for 85 years, either through the department or otherwise, to enter into contracts. Why now must the Minister be a body corporate?

Hon N.F. MOORE: We are dealing with the vocational education and training system. I confess I am not an absolute expert on constitutional and technical questions of law. The system is changing to allow colleges to enter into contracts for the delivery of vocational education and training; therefore, it is necessary for the Minister to be a body corporate to allow the contractual arrangement to be met. In the event that he were not a body corporate, the TAFE colleges could not enter into contracts.

Hon John Halden: If they became the body corporate they could.

Hon N.F. MOORE: It is intended under this process that the Minister manage the interests of the entire system and take responsibility for the colleges' contractual obligations. Surely this is a very accountable process.

Hon JOHN HALDEN: I do not think the Minister is totally correct. When the Minister is created as a body corporate and Minister, a difficulty arises when acting as the Minister, particularly when entering contracts. Under a freedom of information inquiry or parliamentary question, does the Minister say, "As a body corporate I am not entitled to divulge that information." Of course, as the Minister, he may well be required to divulge that information under our parliamentary or legal system. The propensity to make Ministers a body corporate in no way increases accountability, openness or transparency. In fact, it will set up a rather odd system where in the one breath a Minister is ultimately accountable and could be required to divulge information, yet as a body corporate he could claim that he cannot divulge the information. The person who makes the decision about which hat that person is wearing at that time is the same person - the Minister. That does not increase accountability.

Hon N.F. MOORE: We could get into a long argument about this point. I do not have the legal expertise to argue one way or the other, other than to say that the legal people who put together the legislation through Crown Law are of the view that it is necessary for the Minister to be a body corporate to carry out the functions of the Minister under the legislation. The arguments essentially relate to contractual matters. A good example is the contractual arrangement with the provision of overseas vocational education and training. Contractual arrangements will be entered into in a range of areas; that is, public training providers in Western Australia will increasingly enter contractual arrangements, whether they be contracts with private providers in joint ventures or with companies to provide customised training. It is necessary for the power to be provided to the Minister for the system to work.

Hon John Halden: The Minister said contracts and joint ventures.

Hon N.F. MOORE: It could be fee-for-service training in contracts with certain companies. This provision will allow the Minister to ensure that those things happen, and he will be able to authorise a CEO to exercise deeds and other instruments on his behalf. If we want to have a fundamental argument about body corporates, the Leader of the Opposition is arguing with the wrong person. I accept advice on these issues and it is that it is necessary for a Minister to be body corporate to carry out the functions and obligations under the Bill.

Hon JOHN HALDEN: I understand the Minister's difficulty. I do not wish to be painful in this matter. However, the Minister has provided information which further exemplifies my concerns. If the Minister were not a body corporate, he could not enter contractual arrangements, joint arrangements or fee-for-service agreements or contracts.

Hon N.F. Moore: He can set up another body corporate.

Hon JOHN HALDEN: At the same time we allow the veil to come down so that the Minister does not necessarily have to respond to this Parliament or to our legal system. He would plead commercial confidentiality. A Minister investing or putting at risk X number of dollars of state revenue should not be able to claim commercial confidentiality. After all, a Minister is a Minister in this place, and not a body corporate. However, as I understand it, it would be rightfully within the Minister's power to claim commercial confidentiality and, therefore, choose not to provide information. That is not an appropriate system, and we should not encourage it.

The Minister is correct. I am sure that Crown Law provides that advice. However, in essence, the notion of a Minister being a body corporate is a dangerous one for this place more than anything else. I have used the freedom of information example.

Members opposite objected vehemently to claims of commercial confidentiality in the past. I do not like it much either, but I do not think we should be increasing the propensity for a Minister to use that excuse, particularly when discussing this sort of arrangement and information which should be available to this place. We should be aware of the basic details of contracts, joint ventures or fee-for-service contracts or arrangements. There could be some difficulty with parts of that, but as a general rule we should know about those aspects. I see no reason for the Minister to be a body corporate. For probably 95 years Ministers have been able to do all these things, but they did not need to be bodies corporate. As I understand it, the only reason for that requirement is this veil of protection. This is a very dangerous precedent. We should be very careful before we go too far down this path.

Hon N.F. MOORE: Under the current arrangements for contracts between training providers in Western Australia in the public sector and other organisations - for example, customised delivery of training - it is necessary for the College of Customised Training on behalf of the entire TAFE system to enter into contractual arrangements. The existing colleges cannot enter those contractual arrangements, nor can the system - other than through the CCT or the independent colleges, which are bodies corporate as well. The Leader of the Opposition is arguing that the Minister must answer questions in Parliament but is somehow less accountable than having the CCT, a body corporate, entering contracts at arm's length from the Minister.

Hon John Halden: Theoretically at least, in this place we can ask or demand of a Minister information about those contracts but, with his being a body corporate, we are further restricted from having access to that information. I am not being personal.

Hon N.F. MOORE: I am sure the Leader of the Opposition is not being personal. I do not imagine that a Minister responsible for vocational education or training would claim commercial confidentiality in this place regarding a deal that a TAFE college has done with a company, involving public funds. That would be ludicrous.

Hon John Halden: The Minister for Transport does that every day.

Hon N.F. MOORE: The Leader of the Opposition can argue that, but I do not propose to get into that debate. The view of Crown Law is that, to enable this model to work, and for the Minister to have the necessary powers to make it work, it is necessary for him to be a body corporate. That is a very accountable arrangement.

Hon TOM HELM: I share the concerns expressed by the Leader of the Opposition. Under clause 10 the Minister can delegate his body corporate powers. The Minister may have hit the nail on the head. The WA Inc situation caused many objections to be raised by members opposite to the excuse that commercial confidentiality forbad a Minister from answering questions. As a body corporate a Minister will become something other than a Minister answerable to this place.

Hon N.F. Moore: A Minister is still a Minister.

Hon TOM HELM: He is also a body corporate.

Hon N.F. Moore: The CCT, which is a body corporate now, gives whatever information it thinks is appropriate to the Minister, and the Minister answers on its behalf.

Hon TOM HELM: Perhaps I am coming to an understanding that those who provide customised training and who sell packages overseas and make contractual arrangements on a day-to-day basis should be bodies corporate. For the most part they are. The independent colleges and many other organisations should be bodies corporate. However, is it wise for the Minister to enter contracts which are shielded from this place? During the 1980s, according to the Commission on Government it was not wise - the Minister has told us ad nauseam that it was not wise - for the previous Administration to hide behind the shield of commercial confidentiality. We need more detailed answers. We must become exposed to the advice from Crown Law which says that this must be done. It is not difficult to understand why organisations, colleges and other bodies under this legislation should be bodies corporate. However it is difficult to understand why the Minister should be a body corporate. The Minister has said that it is difficult to see that -

Hon N.F. Moore: I did not say that.

Hon TOM HELM: It is very frightening that, under clause 10, the Minister can delegate his body corporate powers to someone else.

Hon JOHN HALDEN: The Minister said that he has received advice from Crown Law -

Hon N.F. Moore: It was from the parliamentary draftsman, who is part of the process of putting together legislation to ensure it is technically and legally correct.

Hon JOHN HALDEN: Parliamentary draftsmen are not always right. If this were a general principle and parliamentary counsel were advocating that a person should be the body corporate, surely it would be the ultimate employer - the Attorney General. He is not. The Attorney General can enter a range of contracts without being a body corporate. He is not a body corporate, in legal and parliamentary terms, for very good reason, bearing in mind the different role of the Attorney General in our parliamentary system. It is good enough for the Attorney General, the first law officer, not to be a body corporate; and he can continue to carry out his duties as required. As a Minister, the Attorney General enters contracts, presumably about legal aid, and he dispenses legal aid or has it dispensed in very much the same way as we have spoken about, but currently he is not a body corporate.

I suggest that he is not a body corporate for some particularly good reasons. The reasons are equally applicable to the Minister for Employment and Training or any other Minister in a similar situation. I do not mean to suggest that the Minister is attempting to perpetrate the sort of scenario I have painted. However, I think this is an unhealthy

procedure and it should be avoided, except if there is any necessity in the rarest of cases. It should not become the general rule. We could pursue this matter to the point of capitulation. Perhaps it should be pursued in a far more conciliatory way by asking what the necessity for this is. I will allow the Minister to make that determination.

Hon N.F. MOORE: I can only repeat what I have said before. I am not trying be pigheaded about this. Under this Bill the Minister for Employment and Training has what some people regard as excessive powers. He has significant powers in the management of the vocational education and training system which require him to enter into agreements with public and private providers and into a range of contractual obligations. The advice provided to me is that the most appropriate way to ensure that is done properly and legally is for the Minister to be a body corporate. I accept that advice, and that provision is contained in the Bill. The Bill has been before the Crown Law Department and that is its advice. I am not a lawyer and I am unable to argue the case in respect of the Attorney General because I do not have legal advice available to me to even contemplate the comments of Hon John Halden about that.

Hon John Halden: I may be wrong.

Hon N.F. MOORE: Yes, that is the whole point. I accept the advice provided to me that this is the way the Government must go, because it is within the context of a Minister having to manage a system that requires him to do certain things by way of contractual obligations. The advice is that the Minister should be a body corporate, and that is what I think we should proceed with.

Hon TOM HELM: I must say that -

Hon N.F. Moore: There is some advice I would take ahead of yours, Mr Helm.

Hon TOM HELM: I am not prepared to give the Minister any advice because I am not qualified to advise, and on the Minister's own admission, neither is he. If that is the case, members are entitled to assurances from the Minister that we - or the Leader of the Opposition if the advice is confidential - will be given that advice so we can satisfy ourselves. Debate on this matter has proceeded in the right vein. We have dealt with the Bill in a cooperative sense and we should continue to do that. However, the Minister must admit that we are going down a dangerous track when he asks us to take into account the advice he received in the formulation and drafting of this Bill. The Opposition is doing that. It will not hold up the legislation because it is not sure about why the Minister must be a corporate body. However, the Opposition should sight the advice the Minister has received so that we are satisfied as legislators that we are doing the right thing.

This process is far too airy-fairy. I accept what the Minister tells the Committee because he is a trustworthy and honest man. However, with all due respect to the Minister, by his own admission this provision is contained in this Bill because it is the best way to carry out the legislation. That is fine; however, the evidence to support that is limited. There must be more evidence somewhere. The Minister gave the assurance that he would give opposition members briefings on this legislation, and I will take advantage of those briefings so I can understand better the direction this legislation will take when it becomes an Act.

Opposition members will not hold up the legislation because of our concern about it. However, how sloppy would we be if we just took the Minister's word as an honest man that that was the advice given to him? He cannot present the advice or even read out the parts of it that do not require censoring. Opposition members would be a laughing stock if we were to just accept what the Minister said and put our hands in our pockets and walk away. We must do better than that. We must get assurances from the Minister that he will provide to the appropriate person on this side the advice he received that this is an essential part of the Bill. Let us hope that it is an essential part of the Bill and that we must go further in this matter.

Hon N.F. MOORE: Members all know that Crown Law advice, if there is any in writing, is not tabled in Parliament. That convention has been around for years.

Hon John Halden: Graham Kierath tabled whited out advice that he distorted for his own benefit.

Hon N.F. MOORE: He may have, but I suspect that he was not aware of the convention on that occasion. There may not even be anything in writing. This Bill was not written by me or the Department of Training, but by parliamentary counsel on the basis of Crown Law's advice about what it should contain. The department does not say that it wants the Minister to be a body corporate because that is its view: It indicates what it wants the Minister, the colleges, and the State Training Board to be able to do and asks parliamentary counsel to tell it what powers they must have and what the Bill should contain. Therefore, the legislation is drafted based on the legal principles that they understand

to be necessary in this instance. I am happy to accept that there is a concern. I will arrange for members opposite to have a briefing, whether in writing or verbally, with somebody from Crown Law who drafted this legislation on why that provision is considered necessary.

Clause put and passed.

Clause 8: Functions of the Minister -

Hon JOHN HALDEN: Why is the word "control" included in paragraph (a)? Also, I am not sure that commercial activities overseas under paragraph (d) must be a primary focus of TAFE? It is starting to take on some of the hallmarks of the Western Australian Development Commission. I know that statement is a bit over the top. In all honesty, this is about Western Australia's training system; it is not about an international provider on the world stage. I am interested in the Minister's comments about what is envisaged with the overseas revenue generating activity. Is it in any way envisaged that we will be constructing buildings overseas and providing training to students in situ?

Hon N.F. MOORE: The words "control, direct and coordinate the State training system" have been included to make it very clear that the Minister - that is, the Government - is in charge of the training system to the extent that he or she controls most of the money used to pay for training and is running most of the providers of training within the system. It is necessary for the Minister to have the strategic capacity to ensure that the system is run properly.

Hon John Halden: Can you not do that with "direct and coordinate"?

Hon N.F. MOORE: Again, the people who draft these things -

Hon John Halden: I thought it was you; I was sure I saw Hon Norman Moore's hand on it.

Hon N.F. MOORE: I do not want to control anything unless it is necessary to do so.

Hon John Halden: Then you are directing.

Hon N.F. MOORE: One seeks to have the power to control things in the way they are established. Directing is something that happens subsequent to something being put in place.

Hon John Halden: No.

Hon N.F. MOORE: It can do, as can "control".

The vast sums of money we spend in Western Australia on training come from the State Government, and our contribution is vastly more than the commonwealth contribution - it is probably 80 per cent to 20 per cent. There needs to be an umbrella controlling mechanism within a devolved system, and the Government must control that system. As I said earlier when we were discussing the balance in this Bill, getting the balance between central control and autonomous delivery will be the secret to success in this model. However, it is deemed necessary for the Minister to have these functions in the system, bearing in mind that within the system are the component parts, which are the providers, and that they have maximum autonomy to look after their own interests. The words "control, direct and coordinate" have been inserted because they are appropriate to the Minister's responsibility in the system.

It is part of TAFE's function, or the training system's function, to engage in activities overseas for one very good reason, and that is to make money. Another is to provide support to emerging countries and to use the expertise we have in training and education to assist other countries. A college has already been built in Kuala Lumpur for us to provide in situ training for Malaysians. All sorts of arrangements are being entered into, not only by the Western Australian TAFE system but also by all the other States of Australia and other countries. I was recently in Canada and found that we are in competition in South East Asia with some Canadian colleges that are similar to our TAFE colleges. We are going into a joint venture with one of the colleges in Alberta to deliver training in petroleum in South East Asia. There is every intention of getting into the lucrative markets in training. As a result the training sector of Western Australia will benefit financially.

Clause put and passed.

Clause 9: Powers of the Minister -

Hon CHERYL DAVENPORT: Subclause (2)(b)(i) relates to the curriculum. What guarantees can the Minister give that colleges will not opt for the highest demand courses, which are the cheapest to offer and which provide the greatest profit? How much control does the Minister have in this situation?

Secondly, will colleges be able to determine their own content for each course; if so, will the course entry selection criteria be uniform or will each college need to address different selection criteria for the same course at different locations?

Hon N.F. MOORE: The curriculum is developed by specialists in the field. However, they need to be accredited. The Training Accreditation Council will be responsible for that process. Alternatively it can be done on a national level, where there are nationally accredited training modules. That is the quality control mechanism for curriculum. Colleges will use whatever curriculum they think is appropriate to the programs necessary in their area. There will be one centralised system for student selection, admission and enrolment, and that has been in place for some years. This system has now become quite sophisticated. It had some teething problems when it was first established by Hon Kay Hallahan. We propose to continue down that path.

Hon Cheryl Davenport: I was after an assurance that each individual college would not determine its own selection criteria.

Hon N.F. MOORE: There are across the board common criteria.

Hon KIM CHANCE: I refer the Minister to subclause (3). However, I need to work back from there because that subclause refers to other derivatives of subclause (2). I am worried about the implications of this subclause. It provides that the powers referred to in other subclauses are not subject to, and may be exercised despite, the State Supply Commission Act 1991. The subclauses affected by the exemption from the State Supply Commission Act are subclause (2)(d), which deals with the tendering process in certain circumstances; subclause (2)(j), which involves research and development, and that can presumably include bidding for research and development funds; subclause (2)(k), which relates to assistance to industry and is already a fairly controversial topic - I am sure we do not want to start talking about crocodile farms now; and subclause (2)(l), which is the most dangerous because it relates to the Western Australian Development Corporation and business participation.

In respect of subclause (3), we all know that any agent of the Government can apply for general or specific exemptions under the State Supply Commission Act. We are aware of cases where those exemptions may be for as little as $50 000 a contract or up to $500 000 a contract, and in some cases we have heard of general exemptions. I understand that Main Roads Western Australia has general exemption. In other words, the State Supply Commission sufficiently trusts Main Roads to carry out its tendering process in an entirely proper way. I imagine that trust has been earned over time. I am sure this agency would very quickly be able to engender that level of trust. For an agency to hold specific or general exemption from the State Supply Commission Act does not mean that the agency is free to engage in tendering practices which are outside those provided for in that Act. The degree of trust is simply that the agency will enforce the general conditions which are administered by the State Supply Commission. It is simply that the State Supply Commission does not need to oversee the conduct of those conditions.

I had to go through that to make the point that there is no need for subclause (3). The legislation does not need to specifically exempt the agency from compliance with the State Supply Commission Act. It is even more strange to note that the legislation separates four specific areas of commerce from compliance with the Act, but leaves the rest. There is no need for any of that to occur simply because the State Supply Commission Act provides for exemption of the specific and general cases I have mentioned. Firstly, it is odd that those four areas are identified and, secondly, it is strange, in a general sense, that it is being done, given the provisions of the State Supply Commission Act.

Hon N.F. MOORE: The Department of Training has developed and will continue to develop a level of expertise to deal with issues relating to vocational education and training. It is believed that it, rather than the State Supply Commission, is the appropriate body to make decisions about what vocational education and training programs should be procured for the system.

Hon Kim Chance: I am sure that is true.

Hon N.F. MOORE: It is true.

Subclause (3) states that the State Supply Commission Act will not be exercised in respect to subclause (2)(d), (j), (k) and (l). Paragraph (d) relates to courses, skills training programs and services related to vocational education and

training. In other words, it relates to courses and services - educational services - and not goods in the normal sense of the word. Paragraph (j) refers to services related to vocational education and training. Again, the research and development we referred to earlier relates to services in respect of vocational education and training and it is constrained by those words.

Paragraph (k) refers to vocational education and training and the skills and knowledge needed for that application. Again, it is being given powers outside the State Supply Commission for the provision of educational training and services. The legislation is specific about that because it is considered that the Department of Training is better placed to make decisions about what is appropriate. To satisfy the State Supply Commission the whole idea was put to it and I will read the letter from the Chairman of the State Supply Commission to the Department of Training so that members will understand from where the State Supply Commission is coming on this issue. It states -

> RE: VOCATIONAL EDUCATION AND TRAINING LEGISLATION
>
> As you are aware the paper concerning the above topic was discussed at the State Supply Commission meeting # 33, held on Wednesday 26 July, 1995.
>
> It was recommended that the Commission support changes to the Vocational Education and Training Act that would only enable educational services (not goods and services) to be managed through legislative provisions in the new Act rather than the State Supply Commission Act, provided these services were subject to the Commission's supply policies and the Department of Training manages the function as described in their submission dated 14 July, 1995. This recommendation was endorsed subject to the Department of Training commencing arrangements to obtain quality certification for the procedures concerning the management, tender and purchase of educational services.
>
> This quality certification is required by 25 July, 1996, and I would appreciate early advice from you if you foresee any difficulties in meeting this date.

Bureau Veritas Quality International in a letter to the Department of Training said -

> Further to the Assessment carried out on 15th and 16th of August, 1996, we wish to confirm that as of 16 August 1996 and subject to approval from BVQI London, and continued compliance, Western Australian Department of Training - Training Markets, 151 Royal Street, EAST PERTH WA 6004, has been recommended for Certification to AS/NZS ISO 9002:1994 Standard for the following scope of supply:-
>
> > "PROCUREMENT OF EDUCATION AND TRINAING SERVICES FOR THE WESTERN AUSTRALIAN DEPARTMENT OF TRAINING BY TENDER PROCESSES"

In effect, the State Supply Commission and the Department of Training worked out which is the best organisation to carry out the tendering process for the delivery of educational programs and services. It was agreed by the State Supply Commission that, subject to the department receiving the necessary quality certification, it was an appropriate way to carry out the tendering process. That certification has now been received.

Hon Kim Chance: Were those two pages you quoted from separate letters?

Hon N.F. MOORE: One is a letter from the State Supply Commission to the Department of Training and the other is a letter from Bureau Veritas of Quality International of Labouchere Road, South Perth, confirming that the quality assurance processes are in place. It is intended that the department follows the processes undertaken by the State Supply Commission as closely as is humanly possible.

The member referred to subclause (2)(l), which deals with business arrangements. I will provide the Chamber with an example of a significant business arrangement which has already been entered into; that is, the arrangement between the Navy and the South Metropolitan College of TAFE which was negotiated through the College of Customised Training. It is a multimillion dollar deal between the Navy and TAFE to provide training for people who work on submarines. This clause allows these business arrangements to be negotiated and put into effect subject to the terms and conditions approved by the Treasurer. It is considered that the terms and conditions provided by the Treasurer are more than adequate to ensure that the deals are entered into in a proper and accountable way. That is why the Government is going down that path. I give an absolute assurance that the department will have the expertise and the capacity to enter into tendering arrangements and, generally speaking, it will follow the processes used by

the State Supply Commission. The department has achieved the certification which is necessary for it to be given this power by the State Supply Commission.

Hon KIM CHANCE: I accept what the Minister said. I have no doubt that the Western Australian Department of Training deserves the vote of confidence that the State Supply Commission has shown in it. I share that confidence without question. However, what the Minister has just read in the State Supply Commission's letter challenges what I believed was the case with every other agency. I will need to read the letter in *Hansard* tomorrow to fully understand it. I understand that the letter referred to the State Supply Commission's endorsement of the concept of exemption in certain areas being applied by legislation. I am fairly sure that situation does not arise with any other agency. Certainly, those agencies that I have mentioned such as Westrail and Main Roads Western Australia do not have a legislative exemption from the provisions of the State Supply Commission Act. However, they have an exemption which is granted not by their own legislation, but by the State Supply Commission Act.

That may be a change simply because when Westrail, for example, was granted an exemption it was not granted an exemption from within its own Act, because we did not have a new Act to build that into. It may be the case, because we are initiating new legislation to bring together four older Acts, that it was deemed to be appropriate to legislate here. It is just that it is new, and it seemed strange that a system that worked well under the State Supply Commission Act and an exemption granted by the commission through its own legislation had always seemed to meet the demands of various agencies. It struck a bit of a chord. It is not something I am happy about. I would prefer the situation where exemption was granted under the State Supply Commission Act rather than the agency's Act. It is rather like that principle in legislation - I can never remember the Latin names for these things - that when one seeks to define a right one tends to confine oneself to that right and excludes oneself from other rights. If the Department of Training were to seek exemption in another specific area of its operations people would look at the Act and say, "Well, the VET Act provides for an exemption only in those areas; there must be a reason not to have control over your destiny in those other areas." That is why I prefer the State Supply Commission Act which can review exemptions with some flexibility. I will be interested to read that letter in *Hansard*, but it does seem to be a unique situation.

Hon JOHN HALDEN: I remember well being briefed by the department on this clause. I remember saying at the time that there was no way I would accept this clause, and I have not changed my mind. I am further resolved to not accept this clause, because clause 10 delegates power to a range of people. This legislation provides that certain activities will be exempt from the State Supply Commission Act. However, that Act should apply, because the areas, particularly on page 10 of the Bill, are the areas of most significant problematical outcomes. Those are the areas in which this department could get into the most strife. The Minister and the department have gone down this path because the State Supply Commission's requirements take longer.

Hon Kim Chance: That is even if you have an exemption, because you have to follow the process.

Hon JOHN HALDEN: Absolutely, the process must be followed. The Minister's second reading speech did not say that it would adopt the same principles; it said that the department would devise its own principles. That does not reassure me at all. I understand the letters that the Minister read out. They talk about quality assurance in tendering for educational services. However, paragraphs (k) and (l) principally contain an element of educational services, but it is far more than that. How are issues like intellectual property evaluated? In all honesty, who is in the best position to evaluate intellectual property? Is it the Department of Training or the State Supply Commission, which probably has been doing do it for 250 other organisations. It is a difficult area of the law, let alone evaluating its monetary worth.

Hon Kim Chance: Similarly, the acquisition and disposal of shares.

Hon JOHN HALDEN: If the Minister or his department think I will cop this, they are wrong. It is an excessive power. It is not required. The sort of things that the department wants to achieve can be achieved under the existing legislation. Yes, it will take longer. I accept that. Departmental officers will still be in charge of the process, but the process is overseen.

To add a spectrum of controversy, just imagine if the Fremantle Port Authority had this power when it was dealing with the Minister's mate, Lenny. We would never have known about that shonky little deal, because the State Supply Commission would have been written out of the process and the Minister and his mate Lenny would have claimed commercial confidentiality, as the Minister probably thought about doing. I am not suggesting that the Department of Training will ever perform the stunt that the Minister for Transport tried. In fact, the danger is more in the unknown; that is, doing it for all the right reasons. However, the process is not established and no-one will be clear about what they are necessarily doing, and no arbitrator controls the system. The chief executive officer would much

prefer to have this situation. I would think he probably encouraged his co-member on the State Supply Commission to come to this proposition. I am sure the CEO wrote to Ian Laurance and discussed it with him at a board meeting and the CEO was particularly eloquent in putting forward his views. None of that gives me the slightest confidence.

Hon N.F. Moore: What an absolute disgrace to take that personal approach.

Hon JOHN HALDEN: I have brought the correspondence.

Hon Kim Chance: It is not meant to be critical; it is a recognition of the facts of life.

Hon JOHN HALDEN: The chief executive officer put forward the view that there were streamlining advantages. I might accept that, but not that it should happen to the detriment of openness, accountability and supervision. That is the issue - no more, no less. The Minister talked to us - I agree with him - about an arrangement between the Royal Australian Navy and the Rockingham campus of the South Metropolitan TAFE. It a worthwhile arrangement. It came about under this regime. Again, I ask the Minister, as I did during the second reading debate, why are we throwing out the baby with the bath water? There is no need to do that. At the end of the day the situation is that this is one of the more excessive efforts to reduce accountability and should not be tolerated by this Parliament. We have a State Supply Commission Act and a State Supply Commission. We have procedures to allow for exemptions. Why should we change them? Not one scintilla of an argument has been put up that this needs to occur, and we will not be supporting this clause.

Hon N.F. MOORE: We may end up having to agree to disagree on this matter. There has been very close consultation with the Department of Training and the State Supply Commission on this issue. I have read out the correspondence that applies to the views of the State Supply Commission on this and the granting of quality certification in respect of the processes that are to be adopted. The commission's policies and procedures will still be followed to ensure priority and equity principles are preserved. The commission will assist the department in making sure it develops proper procedural arrangements so that it occurs in the same way as the State Supply Commission would act. I also need to draw to the attention of members that the chief executive officer declared a conflict of interest and was not involved in the decision of the State Supply Commission on that matter. I believe him to be a man of honour, and I resent any suggestion that he may have sought to use any of his so-called eloquence to promote his own cause.

Hon John Halden: I wrote to him. I have the letter in my office. Do you want me to table it?

Hon N.F. MOORE: Yes. I would like that because it would be very handy. While the Leader of the Opposition is getting it, we might go on with three or four clauses!

My point is that the CEO was not part of the decision making process. He may have written a letter, and we will soon find out whether he wrote that on behalf of his agency. Obviously someone initiated this proposition. The fact of the matter is that he absented himself from the decision making process, as is right and proper. It happens in all sorts of organisations, such as shire councils, Cabinet, party rooms, where people are involved in a decision in a personal sense. According to the advice I have, he absented himself from that process.

We have gone through a very proper process to enable the Department of Training to be involved in tendering for the delivery of educational services. I emphasise that that is what this is all about. It can enter into contractual arrangements for business, but only subject to the stringent terms and conditions approved by the Treasurer. We could argue about this all night, and I suggest we do not. Perhaps on this occasion we should just agree to differ.

Hon JOHN HALDEN: I have in my hand a letter dated 3 May 1995 addressed to Mr Craig Lawrence, Chairman of the State Supply Commission, 441 Murray Street, Perth. It is signed by Ian Hill, Chief Executive Officer. I will take this opportunity to read out part of it. The first paragraph states -

> I wish to advise that the Minister for Education, Employment and Training, the Hon Norman Moore, MLC, is pursing the development of new legislation to cover the vocational educational and training system.
>
> The Minister is seeking Cabinet endorsement of specific legislative Ministerial powers in the new VET Act, to enable such arrangements to be implemented for the provision of "educational services" under the VET Act, rather than the State Supply Act. Open and competitive processes would still be maintained that would be subject to security and probity.

Of course, it does not go on to say how that will be established. I probably did malign the chief executive officer. I probably gave the impression that it was more his intention to circumvent the State Supply Commission Act. In fact, it would seem that it was the Minister's. I seek leave to table this document.

Leave granted. [See paper No 651.]

Clause put and a division taken with the following result -

The DEPUTY CHAIRMAN (Hon W.N. Stretch): Before the tellers tell, I cast my vote with the ayes.

Ayes (14)

Hon George Cash	Hon P.R. Lightfoot	Hon M.D. Nixon
Hon E.J. Charlton	Hon P.H. Lockyer	Hon B.M. Scott
Hon M.J. Criddle	Hon I.D. MacLean	Hon W.N. Stretch
Hon Max Evans	Hon Murray Montgomery	Hon Muriel Patterson
Hon Barry House	Hon N.F. Moore	*(Teller)*

Noes (10)

Hon Kim Chance	Hon John Halden	Hon Tom Stephens
Hon J.A. Cowdell	Hon A.J.G. MacTiernan	Hon Bob Thomas
Hon Cheryl Davenport	Hon Mark Nevill	Hon Tom Helm *(Teller)*
Hon N.D. Griffiths		

Pairs

Hon Derrick Tomlinson	Hon Doug Wenn
Hon B.K. Donaldson	Hon Graham Edwards
Hon Peter Foss	Hon Val Ferguson

Clause thus passed.

Clause 10: Delegation by Minister -

Hon TOM HELM: I have a problem with the powers of the Minister. The Minister is mentioned on nearly every page of this Bill, and that is somewhat unusual. The Minister said that the Minister needs to take unto himself this enormous amount of power in order to protect the State's interests. This clause will allow the Minister to delegate most of those powers to other people, who are described in subclause (1)(a), (b) and (c). Subclause (2) states that the Minister cannot delegate any of the Minister's powers in relation to the appointment of members of the board or the council. It is a reasonably efficient and effective way of carrying out business to delegate powers to the chief executive, a governing council or an interim governing council, or the managing director of a college or a person in charge of any other vocational education and training institution. I do not have a problem with that.

However, I do have a problem with subclause (3), which states that a person to whom a power has been delegated may subdelegate that power to another person with the approval of the Minister but not otherwise. I concede that the people mentioned in subclause (1) are responsible and could be duly delegated with a power by the Minister, but I have some major concerns about those persons subdelegating that power to another person. If one of those people does subdelegate that power to someone else, the only people who may know about that will be the Minister, because he has to give the approval, the person to whom the power has been delegated, and the person to whom that power has been subdelegated. That is pretty sloppy. It is an indication of the way that we have been drafting our legislation of late. The Committee has accepted the need for that delegation, but the need for that subdelegation demands a more detailed explanation than the Minister has given.

Hon N.F. MOORE: The situation arises occasionally in organisations where a person to whom a power has been delegated gets sick, goes on leave, or for some reason cannot carry out his functions, and it is appropriate for that power to be subdelegated to the second in charge, but only with the approval of the Minister. Clearly if the Minister has the power to delegate to the chief executive officer, it is appropriate that the CEO have the power to subdelegate

that power to the second in charge. For example, the current managing director of the College of Customised Training, or TAFE International as it will be called, will become part of the Department of Training in the future, and it may be appropriate to delegate to him some of the powers of the Minister for contractual arrangements with overseas training providers or students. Therefore, the Minister's powers may be delegated to another person for a particular task. It is all about flexibility and making sure that the system will work, bearing in mind it is a big organisation, and CEOs are not immune to being ill or on leave.

Hon JOHN HALDEN: I understand the Minister's view that the CEO may become ill, and I do not have any problem with the Minister being able to appoint someone to take on those delegated powers, but we should - I may be stretching standing orders just a bit - refer back to the clause that we just passed, particularly paragraphs (j), (k) and (l). Paragraph (l) refers to "participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement". If TAFE International were to enter into some joint venture in some far flung part of the world, I would not want anyone but the Minister to be responsible for that. Of course, the Minister can delegate, but the power to delegate should not be as open as it is in this clause. As I said earlier, those paragraphs are the areas of greatest risk in this part of the Bill, and to not circumscribe this power of delegation so that it will not be given to people who are involved in those areas or transactions could make the State and the department enormously vulnerable.

I can understand the delegation of power to the chief executive; a governing council or an interim governing council, of which I presume there will be about 10; or the managing director of a college or a person in charge of any other vocational education and training institution, of which there will be at least 10. That is a fairly extensive power of delegation - basically as broad as the Minister wants it to be - but it should not be for share transactions, the development of industry and commerce, or applied research and development, which could place the State at risk of considerable financial problems.

We are saying that, having made that not applicable to the State Supply Commission, we are now giving the Minister the potential to delegate that power all over the place. This Minister may not delegate that power all over the place, but what this Bill is about is not this Minister but the letter of the law, and the letter of the law here is that any number of people could end up with the power of delegation and could get involved in activities involving millions of dollars. If the Minister thinks that I am appalled by the last decision, what we are putting into legislation by way accountability is even more of an outrage. I accept part of the Minister's reasoning for this but it should not be an open slather arrangement. The Minister may get up and say, "I do not have to delegate." However, this clause could be in place in perpetuity and is a dangerous precedence which must be circumscribed.

Hon N.F. MOORE: If the Minister is so incompetent that he would allow those sorts of things to happen, he should be doing something else for a living. It is clear to me that a Minister will delegate powers only when it is necessary and agree to subdelegation only when it is absolutely necessary. A Minister worth his salt, as hopefully a Minister of vocational education and training will be, will set conditions for delegation and for specific delegation to individuals. I cannot imagine a Minister for employment or a Minister for vocational education and training delegating to the cleaner of Karratha College the power to enter into million dollar negotiations with an overseas company. Ministers are not that stupid as a rule.

The power is there to give the necessary flexibility to ensure that this big system, which involves $250m, can operate without the Minister sitting in his office ticking off everything that the system does. Members will know that delegation happens in all major organisations, and it is appropriate that it should happen in this organisation. Ministers are ultimately accountable. If they delegate power to somebody who makes a mess, the Ministers carry the can because they have to come here and account for it. That is the ultimate sanction. It makes no difference whether a Minister or someone to whom he has delegated responsibility makes a mess, because the Minister gets it in the neck.

Hon TOM HELM: Let us give it to the Minister in the neck right now. As has already been said, the examples we can envisage with CEOs getting sick are not the problem. We accept that on occasions for the smooth running of operations a Minister's powers would need to be delegated. The Minister has mentioned various people, but maybe he should mention the people who act in their positions when CEOs are sick. We are being told, and to some extent we accept with some concern, not just on this side of the Chamber but the other side as well, that the Minister takes it upon himself to have these powers. If he has to have the powers in this Bill to act in the way he wants, he should have them and there must be a clear understanding from the beginning upon whom those powers will be conferred.

There is nothing wrong with referring to the acting chief executive. Although we might not like it, common sense would tell us that power obviously would be delegated to an acting CEO, governing council or interim governing

council. However, why on earth would we need to expand it in any way is beyond me. It is a frightening concept because it does not preclude the cleaner, however competent he or she may be, from receiving those powers. We do not need to have this clause, which is like a Henry VIII catch-all clause. If we as competent members of Parliament on behalf of our constituents accept the word of the Minister in this place when he says that he needs the authority, surely we have the right to have, not the names and ranks, but the circumstances envisaged. That is all we need do.

The Minister has said he does not envisage a time when clause 10(3) would need to take effect. If that is so, why is it in the Bill? Why have this subclause when we are already concerned about the powers the Minister takes upon himself? If that is worrying, subclause (3) is an even greater worry and is superfluous to this Bill. It has no meaning for the Minister or us. If we cannot see any time when it will be used, because we cover all the bases by saying that people who act in this position will be perfectly logical recipients of the powers - and that is a cast of thousands - that is fine. If the Minister has a heap of papers in front of him, one of which authorises a cleaner at Karratha College or anywhere else for that matter, and he just signs it, of course he cops it in the neck in this Chamber. However, the minority is not big enough to have the Minister cop it in the neck. Why open himself to that criticism when there is no need for it? If there is no need, let us not have the clause in the Bill.

Clause put and passed.

[Resolved, that the House continue to sit beyond 11.00 pm.]

Clause 11: Minister may give directions -

Hon KIM CHANCE: My concern here is with subclause (5), which provides that the text of a direction given by a Minister is to be included in an annual report. Obviously we have no difficulty with that concept; it has been incorporated in legislation for some time now. However, the timing and the physical limitations of noting an entry in the annual report make the provision meaningless. I believe that in this I am supported by the text of the thirty-sixth report of the Standing Committee on Government Agencies. Currently an annual report is due in the September following the close of the financial year but in many cases does not arrive before us for six to seven months after the close of the financial year, and that makes this provision, while well intended and an improvement on failure to report at all, rather less useful than it might otherwise be. The requirement should be - I believe this is also a recommendation of the thirty-sixth report - that the Minister table in this place directions he has given to the agencies. I do not see that that poses any difficulty for a Minister. I do not think any of us would disagree with the reasons that we require the reporting of directions in annual reports. The reason for that is to clearly indicate to the public that directions have been given. The time lag involved in reporting them in that manner is unwarranted and tends to give the whole function of reporting a direction no meaning because it is too far from the time at which a direction was made. I would prefer to see legislation before this place which recognised the situation drawn to the attention of the Parliament by the thirty-sixth report and to see something like a requirement for a Minister to report within, say, 28 days of a direction being given.

Hon Tom Helm: Was the Minister a member of that committee?

Hon KIM CHANCE: He was indeed a noted and extremely valued member of the Government Agencies Committee and for shortly after his appointment as a Minister of the Crown.

Hon A.J.G. MacTiernan: He stayed on for a while did he not?

Hon KIM CHANCE: I supported the view that he stay on for a short time but that is irrelevant to this matter. I am interested to hear, particularly in the light of the Minister's background and his deep involvement with the thirty-sixth report, which exceeds my involvement, to hear how he feels about the inclusion of what is fast becoming an outdated mechanism of reporting ministerial directions.

Hon N.F. MOORE: As I suggested, Hon Kim chance is a smooth talker. He certainly knows how to convince me of the righteousness of his argument when he tells me that I was in some way responsible for a report that recommends certain things. I do not resile from the fact that the thirty-sixth report resulted from my decision as the chairman to convince the committee that it should do something about government agencies in Western Australia. It is a good report. I stayed on the committee after becoming a Minister to see the report completed. However, it recommends significant changes to the way in which we carry out public administration in Western Australia. I hope the Government may have examined it by now, but I do not think it has. That is often the fate of good reports - and not necessarily with this Government. I remember writing many reports while I was a backbencher in opposition and

wondering when the Government would legislate, expecting it to be two or three days later, only to find that nobody had done anything about it. The thirty-sixth report recommends significant change to public administration in Western Australia. I think Governments should look at it across the board. The aim of the exercise in the first place was to bring uniformity into the way in which agencies operate.

Members who were on the committee may be aware that some of the terms of reference of the inquiry which led to the thirty-sixth report referred to a model Bill or standardised process for setting up government agencies. The report was more into that, rather than ministerial direction being reported in any place. I think that was incidental to the main purpose of the exercise. Although I do not have a great problem with this, I prefer to see it in the context of across-the-board decision making becoming a permanent feature of legislation in the future rather than this Bill including that amendment. It would be an interesting scenario where a set of directions by Ministers to boards had to be tabled in the House in one instance, but not in any others. I was trying to achieve - this is not in any way a weasel word - some uniformity with legislation in Western Australia and the member is asking me to do the exact opposite.

I will continue to encourage the Government to deal with the thirty-sixth report. Obviously it will not happen before the next election. I hope that whichever party is in government after that will find the time and energy to deal with it because it has significant benefits for public administration in Western Australia. I would like to see this issue contemplated in that context so that the Government and the Parliament agree that this should apply to every circumstance.

Hon KIM CHANCE: The Minister has given an argument against picking up the recommendations of the thirty-sixth report in a piecemeal manner. I do not intend to argue with him on that point; it would be contrary to standing orders. Although the Minister said that the Government has not taken the opportunity to examine the thirty-sixth report in any detail, he is being a little unfair to the Government because at a non-parliamentary level, at least the chief executives of departments have taken the opportunity of examining the thirty-sixth report in great depth generally.

Hon N.F. Moore: I acknowledge that.

Hon KIM CHANCE: I am sure they have briefed their Ministers about it. We have had numerous in-depth conversations with various chief executives. I disagree with the Minister about the need to avoid picking up the recommendations of the thirty-sixth report in a piecemeal manner. Although it will not be the best way to do it, there is enough in the thirty-sixth report to allow Ministers and departments to pick up vital aspects of it and use them to great effect. I have given credit before to a member in the other place to whom I do not often give credit; that is, the Minister for Primary Industry. Within about six weeks of the tabling of the thirty-sixth report major legislation came into this place from him which picked up a vital component of the thirty-sixth report for the very first time. I think all of us were gratified to see that. It was an issue which was of more structural significance than what we are looking at here, which is the matter of when, not how, a Minister is required to report a direction, something which does not happen often. Members can determine that for themselves by looking back through recent reports. It is not a common occurrence. I do not think it would put government or administration at any great disadvantage or inconvenience to comply with it.

While I do not believe we are contemplating an amendment on this matter, it is something that I would like the Minister and other Ministers to take on board and consider when they are drafting legislation in the future. Perhaps the best way of reporting ministerial decisions is by way of tabling them in the House rather than by awaiting the occasion of the annual report.

Hon JOHN HALDEN: I support Hon Kim Chance's comments. I want to give specific examples of what I see as the problems in regard to this clause. The provision to include an annual report and the tabling of an annual report in this place does not provide us with any great confidence. Hon Alannah MacTiernan asked about the 1993-94 annual report of the building and construction industry training fund. It was not tabled.

Hon N.F. Moore: We are checking that. You are absolutely right.

Hon JOHN HALDEN: I put it to the Minister that little protection is offered in this provision. There is little enough anyway. There are requirements for annual reports to be presented to the Auditor General and when they should be presented to this place. The number of annual reports that are not provided in the allocated time line is significant. Also annual reports can be presented to the Parliament when it is in recess and tabled en masse when we sit again. As Hon Kim Chance pointed out, that could be 18 or 19 months later. However, depending on the reconstitution of the Parliament or of the next session of the Parliament, there could be delays of two years. That is not beyond the

realms of possibility and has not been with Education Department annual reports. That provides very little by way of accountability. I do not think it is a great requirement to ask the Government to include a 28 day provision for the tabling of documents. If accountability issues are to be addressed by this Government, as I said in the second reading debate, this Bill is a long way from doing that. This Bill does away with the State Supply Commission. We have had a debate about the body corporate status of the Minister and how that could be used to reduce accountability. Accountability relating to delegations has been opened up, high, wide and handsome; and here we have another example of accountability at the fringe at best.

There is nothing untoward about wanting a Minister of the Crown who gives a direction to table that direction within a month. We also should consider this in relation to a Bill very close to the heart of the Attorney General. The Statutory Corporations (Liability of Directors) Bill gives to members of boards - we are talking about that in this case - the same responsibilities for public boards as exist for private boards. If a person were to resign from a board because of a direction given by a Minister, how would we know what caused the resignation?

The CHAIRMAN: I would suggest reading *The West Australian*.

Hon JOHN HALDEN: I may have to read *The West Australian*. However, you should not forget, Mr Chairman, that there may well be confidentiality requirements for proceedings of boards and that may not be an option for the person involved. This is a reasonable request by the Opposition. As I said, I do not like this Bill; I do not have a lot of time for it. However, I will not put it right for the Government. We invite the Government to put it right. It is again in its hands. This is a reasonable request.

Hon N.F. MOORE: The same clause as this is contained in every other piece of legislation under which Ministers can give directions. The member is suggesting that, because the Government Agencies Committee said we should do it some other way, the clause in this Bill is deficient. It is as good as the accountability processes that the Leader of the Opposition regarded as being appropriate when he was in government.

Hon John Halden: Times change.

Hon N.F. MOORE: Of course they do. I said a little while ago that the thirty-sixth report refers to getting uniformity into legislation. Because I am a signatory to that I believe we should get uniformity. I said we would look at that. I have no doubt that if the Leader of the Opposition is in government after the next election, he will bring in legislation to introduce a state agencies Bill immediately! That might be appropriate. However, for the time being I reject the suggestion that there is somehow a fringe accountability requirement, because it is required in every other situation and the Leader of the Opposition never complained about it before to my knowledge. I am happy to take his point of view to the Government when it considers the thirty-sixth report in its entirety and considers whether a state agencies Bill should be introduced. I will be interested to know whether the same attitude will be adopted by the Labor Party should it become the Government.

Clause put and passed.

Clause 12: Directions to secondary schools and universities providing vocational education and training -

Hon JOHN HALDEN: To whom does the Minister give the directions referred to in subclause (2)?

Hon N.F. MOORE: He gives direction to the school or the university that will deliver vocational education and training as defined in this Bill. For convenience purposes a direction may be given to the Education Department in respect of a government school and a general direction may be given to the whole government schools system. The same could apply to the Catholic system. Independent schools would be given directions independently. The aim of the exercise is to ensure that in the event that schools deliver vocational education and training, and they use funds allocated for vocational education and training, it will be provided in the same way as it is provided in VET institutions; that is, the same fees, courses, accreditation and reporting requirements will apply, no matter which institution is delivering the vocational education and training.

Hon JOHN HALDEN: I am not convinced about that. The clause states that the Minister may give directions with regard to certain matters. The Minister responded that it would apply to a university, school or VET provider. Surely the Bill should specify to whom the directions may be given. If a Vice-Chancellor of the University of Western Australia were given directions by the Minister about fees and reporting requirements he or she might not be prepared to accept them for a range of reasons. Under other clauses in the Bill the Minister may give directions to the State Training Board, colleges, and the like. However this clause provides only for the very broad concept of secondary

and university sectors. To whom will the Minister give directions? Who has the responsibility to receive and act upon those directions?

Hon N.F. MOORE: We are developing a potential for being pedantic. The situation is simple. Funds are provided for vocational education and training in Western Australia. The way in which those funds are used is subject to agreements with ANTA. It is necessary for the state training agency to be accountable for the expenditure of funds for the VET sector, and it is important that it be itemised and recorded so that the maintenance of effort requirements can be substantiated and the State can assure ANTA and the Commonwealth Government that it is meeting its commitments under the ANTA agreement. If the funds are to be expended in schools or universities, it is necessary for the people responsible for the VET funds to have some involvement in how they are spent. This is dealt with under a resource agreement, which is defined as an agreement between the Minister and a training provider relating to the vocational education and training to be provided by that training provider.

The intention is that initially, in the event that schools or universities want to provide VET courses using funds provided under this legislation, they will enter into a resource agreement. In the event a dispute arises and it cannot be resolved, the Minister will have the power to issue directives on the basis of matters outlined in clause 12. The Bill contemplates that the expenditure of funds allocated for VET, which must be accounted for under the ANTA agreement, must be controlled by the Minister for Employment and Training if the funds are to be used in institutions other than VET institutions; that is, secondary schools and universities. It would normally be put in place by a resource agreement between the relevant parties. It could be between a university and the Department of Training, or a school and the Department of Training. If it is decided that the Education Department will run VET courses in its system, it will enter into a resource agreement with the Department of Training on behalf of the schools within its system. The resource agreement may be with the school or the system. The system would be used for ease of organisation, and any directives would be in relation to situations in which it is impossible to reach a resource agreement. If the Education Department wants to consume VET dollars, it must do so on the terms and conditions set down by the ANTA agreement.

Clause put and passed.

Clause 13: Minister may issue guidelines -

Hon JOHN HALDEN: Will the Minister clarify subclause (2), which empowers him from time to time to issue guidelines? In the Minister's second reading speech he referred to autonomy, flexibility and allowing managers to manage, counterbalanced by the need to have some control over the system. This clause potentially will allow the Minister to prescribe by way of guidelines anything that happens in the system. Are there limits in this area or is it totally open-ended?

Hon N.F. MOORE: There are some areas in which the Minister may not issue guidelines, as specified under subclause (3). The aim of this clause is to acknowledge that the training system is evolving very quickly and it may be necessary from time to time for guidelines to be issued from the Government, through the Department of Training, to the system to ensure it has coherent and consistent policies across-the-board. That may be necessary to make sure we are delivering the best training within the circumstances that change from time to time. It is a proviso that may or may not be used. During my time as Minister I have seen significant changes at a federal level, a collective national level and within training itself, where it is necessary for there to be general principles under which a system needs to operate in order to be up to date and effective. It is a mechanism which allows the system, and in effect the Minister on behalf of the Government, to ensure the system is operating in a coherent and consistent fashion where it is determined that that is necessary.

We must take into the account the thrust of this exercise; that is, to have autonomous colleges. I return to the point about the balance in the system. Achieving maximum autonomy will be difficult in trying to balance everybody's interests. That is the challenge ahead. I am of the view that we should give maximum autonomy to the colleges and that the very broad guidelines should be issued only in the event of the State trying to ensure consistency and coherence across the network.

Hon TOM HELM: The subclause states that the Minister may from time to time issue guidelines which are not inconsistent with this Act. Will the guidelines be published in the *Government Gazette* and thereby be disallowable? It seems that the guidelines will be ultra vires the Act. Will the Minister allow that to happen?

Hon N.F. MOORE: The guidelines are not regulations. The regulations made under the Act will go through the process of gazettal. Guidelines are meant for policy; they are not subsidiary legislation.

Hon TOM HELM: I direct the Minister's attention to a report released by the Joint Standing Committee on Delegated Legislation which advised this place that the committee was finding an increasing number of cases in Bills presented to it of regulations described as things other than matters contained in the committee's terms of reference. The Minister has advised during debate on this clause that the guidelines will not be inconsistent with the Act. That is fine. This Minister is a man of honour and understanding. The trouble is that people drafting the guidelines may not be aware of how the guidelines are inconsistent with the legislation. In other words, they could be ultra vires the Act. An amendment is unnecessary here as the Minister can give the Chamber an assurance in this regard. One could not have secret guidelines as they are made public once they are released. However, the Chamber deserves the opportunity to check the guidelines to see whether they are consistent with the Act. It should not be left to the Minister's adviser or draftsperson to decide the consistency or otherwise of the guidelines. Is this a matter of sloppy legislation or draftsmanship, or does it have some other sinister aspect?

The previous clauses contained directions. Once upon a time, one used regulation to act as required. Here the subclause clearly refers to consistency. It talks about matters being ultra and intra vires the Act. The Delegated Legislation Committee is concerned that codes of practice are used instead of regulations, and here guidelines are to be used where regulations should be properly applied, as occurred in the past. Nobody has the right to take away the scrutiny of this Chamber, but that is being done through this subclause. We are the final determinant of what is intra and ultra vires - that is our job and what we are paid for.

If the Minister is dinkum about having consistent guidelines, he should allow them to be scrutinised by the appropriate body. The guidelines should be gazetted. I do not suggest some devious purpose for the non-scrutiny of the guidelines. On many occasions the Joint Standing Committee on Delegated Legislation, with the authority of this place, has found genuine mistakes with regulations which made them ultra vires the relevant Act. It is wise for the Minister to take on board the advice of that report. The committee's chairman, Hon Bruce Donaldson, is very much aware of the dangers of this practice. The Minister, or the person who drafted this clause, must be aware of the danger also as the Bill ensures that the guidelines will be consistent with the Act. However, we should be allowed to scrutinise that process through regulations published in the *Government Gazette* and have the ability to move to disallow them.

Hon N.F. MOORE: Technically, guidelines have no legislative effect. They are similar to administrative instructions. They are part of the legislation, but are not delegated or subsidiary legislation. Guidelines relate to questions of policy.

Hon Tom Helm: They must be in the Act - you said so yourself.

Hon N.F. MOORE: I acknowledge that. One could not say in the guidelines that one was able to knock down a departmental science building.

Hon John Halden: It probably does!

Hon N.F. MOORE: Probably. Anyway, I have some sympathy for Hon Tom Helm's argument, but I do not agree with him. He makes the point himself that guidelines will not be secret. I anticipate that they will be released across the board.

Hon Kim Chance: They sometimes are secret.

Hon N.F. MOORE: I cannot imagine how they could be secret.

Hon Kim Chance: I will give you an example.

Hon N.F. MOORE: I could arrange for the member to receive the guidelines on an informal basis.

Hon John Halden: Can I have them?

Hon N.F. MOORE: They will be issued as a public arrangement. I would not be at all unhappy for Hon Tom Helm, who takes an interest in these things, to look at them and cast his learned eye upon them and say whether they are appropriate.

Hon Tom Helm: Comrade! Then what?

Hon N.F. MOORE: The member takes an interest in these things. As we are not talking about regulations, obviously no arrangement is in place. Guidelines are different from regulations - they are intended to be different - and they do not have legislative effect.

Hon Tom Helm: They can have.

Hon N.F. MOORE: They do not; they are not intended to have legislative effect. I am happy for members of the Delegated Legislationn Committee to look at these matters and to contemplate the guidelines and consider whether they want to make recommendations to parliamentary counsel, the Government or the standing orders committee, or introduce a Bill or whatever; I will not slash my wrist if Hon Tom Helm looks at the guidelines.

Hon KIM CHANCE: I was impressed with Hon Tom Helm's comments. The Minister's response was that guidelines are not secret, and I interjected that sometimes they are. I will briefly give an example of how they can effectively be secret and can have a significant effect on the outcome of regulations and other matters prescribed by a Minister.

Members will be aware of my interest in the Kimberley trap fishery, about which important decisions are currently being made. A ministerial advisory committee established under the Act has, as the name suggests, provided recommendations to the Minister. However, the structure of that ministerial advisory committee, and a number of activities within that committee, are governed by guidelines. The difficulty is that the guidelines were not made available until far too late for members of the ministerial advisory committee. I believe that much of the difficulty which has arisen in this fishery stems from that point. The ministerial advisory committee did not have access to the guidelines until six months after the first meeting. The guidelines were not available when the MAC held its first meeting. They were not published until seven days later. It was six months before it finally had the guidelines -

Hon John Halden: You should point out that not only were they not available for six months, but also the implications of that directly impacted on people.

Hon KIM CHANCE: The leader's point is made. One of those implications is that the Minister now has recommendations in front of him which are different from what they would otherwise have been had the MAC had access to the recommendations, because it affected the structure and decision making process. I understand that the recommendations are not recommendations; they directly contradict each other. The outcome has been universally bad for everyone - the fishery, the fishermen, the Minister and this place, given the amount of time spent on the issue.

Guidelines have crucial outcomes, and sometimes sadly they are kept secret - whether deliberately or inadvertently - from the people they most affect. It would be of great value if, even on a voluntary basis, the Minister provided the guidelines to members and the committees of this place. I could extend that and include ministerial directions. Even though the legislation does not provide for the tabling of ministerial directions I see no reason why the Minister could not table them as and when he thinks it is appropriate.

Hon TOM HELM: We oppose this legislation. It is not a good piece of legislation. I think someone is having a lend of the Minister.

Hon N.F. Moore: Come off it. That is a ridiculous statement. You are downgrading this debate into something personal and stupid - just because people do not agree with you.

Hon TOM HELM: The Minister agrees with me.

Hon N.F. Moore: I did not.

Hon TOM HELM: The Minister said that I could look at the guidelines. It does not matter how much I have been involved in the scrutiny of legislation, I am still a layman. There are experts in the field, and my opinion is not worth much. However, that does not matter. It would be a wonderful exercise to take up the Minister's offer, but it is meaningless. Subclause (2) states that the Minister may, from time to time, issue guidelines not inconsistent with this Act. I do not think for one moment that the Minister would want to keep guidelines secret. I do not say that he is not a good judge of what is consistent or inconsistent with the Act. Someone else will write the guidelines. The Minister will have advisers. In the best scenario a person may be keen to remain within the meaning of the Act, but a typing error may occur. The Minister may not notice the error; he has much to do.

The Minister has been very supportive of the work of the Joint Standing Committee on Delegated Legislation. We do not seek an amendment. I did not join in the debate about ministerial directions. I would have been drawing a

longer bow than I am now. I merely wish to address the words "not inconsistent with this Act". The Minister's track record proves that he would not do anything to undermine this provision, but the people working in his best interests could make a mistake. The Delegated Legislation Committee was appointed by this place to consider regulations, only because regulations gain their power from this Chamber making a Bill an Act. That is what concerned us when we appointed the Delegated Legislation Committee. We accepted, tabled and printed a report which brought to the attention of this place the use of different names rather than "regulation". The committee was not empowered to look at, comment on or advise about codes of conduct, guidelines and a number of other matters. That was the problem. We said that if we made use of those words often enough we would return to this place to ask for our terms of reference to be changed to cover those areas. That appears to be using the authority of this Chamber in an inappropriate way.

I am a person of goodwill, but my point is that if a person wanted the guidelines to be guidelines on the Minister's authority only, the clause should say so. If they are to be considered as directions, the clause should say so. We are being asked to accept someone's opinion about whether the guidelines are consistent with the Act. How would I be viewed by my peers on the Delegated Legislation Committee, a number of whom are in the Chamber now, if I agreed? We do not seek an amendment or to delay the Chamber any longer. As people of goodwill, we simply ask the Minister to give some assurance. He has offered to allow me to look at the guidelines, and I thank him for that. The Minister may hold me to secrecy when I examine the guidelines, but I will not accept those terms. The Minister's offer is meaningless. Why should the Minister fear the Delegated Legislation Committee looking at the guidelines or their being published in the *Government Gazette*? If the committee were to be unhappy with the guidelines - it could only be unhappy in a limited way because the guidelines were laid down by this Chamber for it to consider matters published in the *Government Gazette* - this Chamber would tell the committee that it was wrong and the Minister was correct. Members of this Chamber - the people paid to determine such things - will decide whether the guidelines are consistent with the Act and whether they unnecessarily affect civil liberties and human rights. The committee has been charged to consider these matters. If the Minister is willing to allow me to look at the guidelines, I cannot understand why he cannot assure us that the guidelines will be published and possibly disallowed.

Hon N.F. MOORE: I will not go over this again. I have heard Hon Tom Helm make the same speech twice. Guidelines are not delegated legislation. They are, for example, staff circulars about equal opportunity policies.

Hon Tom Helm: What is the problem then?

Hon N.F. MOORE: There is no problem. These guidelines will be sent out to the colleges. They will be guidelines on the way the system will work. Anyone who suggests that they will be secret simply does not understand what they are for. They are to tell people what they are required to do in certain policy areas as part of a system. Why would they be kept secret? The whole idea of the guidelines is that people will know what they must do. If it were required that those guidelines come before Parliament every time they were put together, members would spend all their time sitting in this place. In order to satisfy Hon Tom Helm's serious concerns, I would sit down with him when guidelines were issued and he could look at the sorts of things they were. He could then make judgments about whether they should be brought before Parliament and we could discuss the matter then. I have no intention of giving an assurance that every time guidelines are issued they will be subject to disallowance in Parliament.

Hon TOM HELM: I know what regulations are and I know what guidelines are for.

The CHAIRMAN: Order! On relevance Hon Tom Helm is spot on. However, he is reaching the bounds of repetition.

Hon TOM HELM: I will stop doing that and bring this matter to the attention of the Chamber: The Minister admitted that he was on the Standing Committee on Government Agencies that put together recommendations that directions be tabled. Members accept that it would be unfair if that recommendation applied to this Bill. The Minister was concerned that this Bill would contain directions that would be tabled and no other. He was looking at consistency. The Joint Standing Committee on Delegated Legislation was set up so there would be some consistency about what we as members of Parliament expected.

This legislation will become an Act. It will be a powerful tool, as it should be. The people of this State should respect it and do what it says they are supposed to do. I am not asking for the same argument to be applied to regulations as were applied to directions because I think the Chamber accepted the Minister's reasoning that it is unfair for one Act to contain tabled directions. However, the rest of the Acts on the Statute book, except for recent legislation - I am not saying that is due to this Administration; it may have occurred four or five years ago - contain for the most part regulations.

Point of Order

Hon P.R. LIGHTFOOT: If Hon Tom Helm is not being repetitious, what he is talking about has nothing to do with clause 13.

The CHAIRMAN: Hon Tom Helm has had an opportunity to make his point clearly. If he continues on this clause, his comments must be relevant without being repetitious.

Committee Resumed

Hon TOM HELM: I am sorry I have been repetitious, but it is frustrating when I have a role to play and I find that an unknown person - not this Minister and nobody in this Chamber - has put together something that prevents me from doing my job. The Chamber must understand the frustration I feel. I am trying to relate the debate on directions to this debate. The Minister said that it was unfair for this legislation to contain those tabled directions. I say that members were used to having regulations across the board - no guidelines, no codes of conduct, and none of the other things that mean the same thing as regulations. However, now we are getting them in a different form.

Clause put and passed.

Clause 14 put and passed.

Clause 15: Vocational Education and Training Trust Fund -

Hon JOHN HALDEN: Will the trust fund allow for the procedure of net appropriation; that is, the carrying forward of money from one year to the next and the placing of money into the account from business activities that can likewise be carried forward from one year to the next?

Hon N.F. MOORE: Yes. The idea of a trust fund is that funds that are obtained through commercial operations and activities can be carried forward from one year to the next.

Clause put and passed.

Clause 16: Application of the *Financial Administration and Audit Act 1985* -

Hon JOHN HALDEN: I refer to subclause (3). Section 14 of the FAAA states that subject to that Act and any other written law, if the Treasurer is satisfied that there is available in an account of the trust fund a credit balance in excess of the amount reasonably required for the purposes of that account, the Treasurer may direct that the whole or part of that excess be credited to the consolidated fund. I understand that the Minister will have the power to transfer excess money in this trust fund from the fund for another purpose. Is that why the Treasurer and that section of the Act have been excluded?

Hon N.F. MOORE: As I understand it, under section 14 of the FAAA the Treasurer can direct that funds from a trust go into the consolidated fund. In consultation with Treasury the Government has come to the conclusion that that power should not apply to the funds in the VET trust fund, and that they should remain there and be used for the vocational education and training system. That capacity for the Treasurer to transfer funds into the consolidated fund for use other than VET would not be permitted. In other words, the money in the VET trust account must be used for VET.

Clause put and passed.

Clauses 17 and 18 put and passed.

Clause 19: Constitution of the Board -

Hon JOHN HALDEN: I am tempted, even at 10.55 pm, to go through this clause in detail and raise the myriad objections that the Opposition has probably put on the record about this matter. The policy of the Bill is that the board, and any other board set up under this legislation or by the Minister, will not be representational of sectional interests. I accept the Minister's position, although I do not agree with it. If the Minister is of such a mind that he is prepared to be tokenistic in this matter and if he really wants to go the whole hog, he can cut out people who have a significant knowledge of employment and training related issues.

Again, based on evidence provided to me today in relation to ITCs, it appears that despite the Minister's perception and, of course, despite the problems that arise with any collection of people who meet to make decisions, there seems to be considerable support for the concept of tripartitism. The concept that the Minister can appoint members at his whim does not in any way resolve the problems of human nature. The constitution of the board, with seven members appointed by the Minister and a panel of nominees from which the Minister can appoint two other members, does not guarantee any more success in the process than the current system that he has criticised so roundly. That system was starting to work reasonably well, if not particularly well in some areas. This clause is quite clearly more about ideological bent and personal preference than anything else.

The desire not to involve people from representative groups is particularly likely to cause significant problems in how people respond to this board. Some people may well not have a significant stake in how it operates, and that should not be the case. Of course, the Minister can appoint the token representative from the unions - as he has done with the interim board. The Minister has said that it is a wonderful board. It may well be, but it could have had a different composition and been just as good.

This clause represents nothing more than this Government's and this Minister's desire to highlight their belief that worker participation and workers' representative participation in important issues should be curtailed. It was never a hallmark of our regime when we were in government. Although from time to time the Minister casts scorn on our tripartitism approach, it was a particularly reasonable system. It was a first; it shifted the power balance that had existed since the Industrial Revolution, if not before that. Unions speak of their significant involvement in the many facets of the old State Employment and Skills Development Authority legislation and their desire to make it work. The same is true of employers. Many of the traditional bogeys or problems between employers and employees were overcome as a result of people sitting down to negotiate common goals. That does not seem to be the case here. Perhaps it is more in line with the Graham Kierath approach that we will not have to worry about unions in the future. That is not the reality at the moment. People to whom I speak in unions and employer groups acknowledge that there have been problems and, of course, there will be problems. However, they say quite clearly that they have got to know each other far better and appreciated each other and their respective positions and arguments.

This rewriting of the constitution does not in any way guarantee anything except the Government's position. We acknowledge that; it is the Government. However, we do not accept it, nor do we intend to support it.

Hon N.F. MOORE: It appears that if one does not support tripartitism one is ideological, but if one does, one is not.

Hon John Halden: I didn't say that.

Hon N.F. MOORE: The member said that I do not have a representative board because of an ideological bent. The member has an ideological bent in the other direction. Let us accept that neither of us is ideological or both of us are.

Hon John Halden: We both are.

Hon N.F. MOORE: It should not be a criticism; it is simply a point of view. My point of view is very strongly related to the fact that tripartite boards have not worked well, not because unionists, government representatives and employers come together but because people say that they are representing the interests of an organisation and unless they get their own way and can persuade everyone else to the view of their organisation they are not able to come to any conclusion by negotiation. They have a predetermined position that they are not able to vary in the context of the debate.

Hon John Halden interjected.

Hon N.F. MOORE: Yes, for far too long. I never want to see them again if I can help it. I must admit that we reached a very good agreement in relation to TAFE lecturers.

The problem with tripartitism is that people arrive with a predetermined position and they are not able to change it. Therefore, the discussions that go on at a board level cannot work. I have made the decision to remove legislative tripartite requirements. However, I give an absolute assurance that there will be people on the board representing the various interests in the community in respect of training.

I draw the member's attention to the words of clause 19(3), which provides -

> The members are to be appointed by the Minister for their experience and expertise in education and training, industry or community affairs and for their ability to contribute to the strategic direction of the State training system.

I am not about to appoint the flunkies the member described the other day. I will appoint people who can make a significant contribution to the strategic direction of training in Western Australia. They must be people of substance who can make a positive contribution in a very important area - that is fundamental to the success of this new model. I am not about to appoint people who cannot make a contribution.

There are people who could be loosely described as representative of workers and who could make a contribution. However, I am not about to say that whoever the Trades and Labor Council nominates will do that. There are many people in the community who are not in unions and who work in small business who would qualify. It is not necessary to have a unionist representing the interests of employees, just as it is not necessary to have a representative of the Chamber of Commerce and Industry or the Chamber of Mines representing employers. There is no intention to reserve a place for any group. However, I will ensure that the seven members with whom I have some involvement will be able to provide as much diversity of opinion and advice as is humanly possible. I have no doubt that there will be some people whom we might loosely regard as representative of the workers, but they will not be there representing the union movement. It is vital that the employees' views on training issues are well and truly heard, because they are the people being trained. I give that assurance and I hope that, when the board is announced, members opposite consider that its members have merit and should be in charge.

Clause put and passed.

Clauses 20 and 21 put and passed.

Clause 22: Powers of the Board -

Hon JOHN HALDEN: Subclause (2) states that for the purposes of proposed section 21(1)(b) the board may issue guidelines to industry training advisory bodies about the criteria to be met for an industry training advisory body to be recognised by the board. In the second reading debate the Minister said he wanted the board to have the opportunity to consult as widely as possible on issues dealing with training. Under this clause the board must issue guidelines outlining who will be recognised as an industry training advisory body. Why does the Minister want to do that? It is clearly defined in the interpretation clause. From what the Minister said in the second reading debate, I thought that is what he wanted.

The interpretation clause provides for the board to consult with a broad group, but under this clause the board may issue guidelines to industry training advisory bodies which will be recognised by it. Subclause (2)(b) states that the board may issue guidelines to industry training advisory bodies on matters to which the advice of a recognised industry training advisory body may be sought or given. It contradicts what the Minister said in the second reading debate and what is in the interpretation clause. The interpretation clause does not refer to an industry training advisory body that must be recognised by the board. What is the need for this clause? I thought it would apply only to those bodies with which the State Training Board would want to consult and that would be done in the process outlined by the Minister to achieve the best result. I have not been complimentary about this legislation, but this clause is superfluous. I am interested to hear the Minister's justification for the recognition process.

Hon N.F. MOORE: Obviously, a range of organisations or people would want to portray themselves as industry training advisory bodies. Some of them may not adequately meet any reasonable definition of that type of body.

Hon John Halden: In that case you won't consult with them.

Hon N.F. MOORE: The board has been given the power to issue guidelines on the appropriate criteria for industry training advisory bodies. They will include such things as the employees of those bodies having some knowledge of the industry on which they are giving advice or that the bodies may need to be representational in terms of the number of employees. I do not have hard and fast views about what they should be other than that the board should be able to say what is appropriate if a group is to be recognised as an industry training advisory body. These guidelines and criteria must be as broad as possible to make sure that there is an acceptable amount of credibility attached to those people who are recognised as industry training advisory bodies. I do not want to exclude anyone who has a genuine desire to make his views known.

Hon JOHN HALDEN: I can only smile at the inconsistency in this legislation. If the Minister wants to define what is an industry training advisory body, why does he not do that in the interpretation clause? Why include it in this clause and make it a responsibility of the board to set up these bodies? In terms of good legislation this is not necessary, but as I have said before, "It is not mine, it is theirs."

Clause put and passed.

Clause 23: Committees of the Board -

Hon JOHN HALDEN: Under this clause members can be coopted -

Hon N.F. Moore: For a particular purpose; for example, as a subcommittee.

Hon JOHN HALDEN: Are those people who are coopted entitled to any remuneration?

Hon N.F. MOORE: I really do not know. I imagine that if they are involved in a lengthy report or inquiry they will be eligible for remuneration. I will check it with the people who decide whether people will be remunerated. The aim of the exercise is to ensure that if the board requests an inquiry into one aspect of training it can coopt people to be part of that inquiry. I believe it is appropriate that they be remunerated.

Clause put and passed.

Clause 24 put and passed.

Clause 25: Establishment of Council -

Hon JOHN HALDEN: On behalf of the Opposition I express its lack of support for this clause. We have had the debate and we should move on.

Hon N.F. MOORE: This is one area on which I made a lot of comments during the debate on the State Employment and Skills Development Authority legislation. When the Skills Standards and Accreditation Board was set up under the SESDA legislation I argued very strongly, but unsuccessfully, that it should not be a representative body. The council's job will be to register and deregister training providers and to accredit, vary and cancel accreditation courses in school training programs. It will be a technical committee which includes people with expertise in, essentially, looking at the accreditation of courses and the registration of providers. It does not need a union, government or employer representative -

Hon John Halden: It might do.

Hon N.F. MOORE: It does not. It will be able to take advice if it wishes, but it will need to have on it people who have significant expertise in those areas. I will be looking for highly qualified people who can make decisions about the quality and content of the courses which will be provided.

Hon John Halden: Would they know whether they are practical?

Hon N.F. MOORE: Of course. I am not talking about people with PhDs in psychology, but people who can make a sensible contribution to what should be included in courses. The State Accreditation Board has been involved in a dispute about some courses at the Henderson campus. Some members did not have the faintest idea what was going on, because they did not have the technical expertise to understand the courses that were being set up.

Hon John Halden: Your seven members will not all have technical experience.

Hon N.F. MOORE: They will have a broad understanding of the way in which curriculums are developed and courses should be put together to make them viable. There is nothing ideological about this; it is about the best quality curriculums.

Clause put and passed.

Clauses 26 and 27 put and passed.

Clause 28: Delegation by the Council -

Hon JOHN HALDEN: The function of the council to register and deregister training providers is set out in clause 27(1)(a). This clause provides that the function can be delegated to "a person". It is not appropriate that one person should have that power, and I will come to that in greater detail in the appeals clause. Clause 27(1)(b) provides that the qualifications gained by somebody can be cancelled, and this clause allows that to be done by delegated power to one person. I do not think that is at all appropriate, particularly as it could have a serious impact on industries and individuals. Those decisions should remain with the board and not with an individual.

Hon N.F. MOORE: The delegation power is essentially included so that the council can delegate powers relating to the self-management of accreditation. For example, our universities are self-accrediting organisations. They set their own curriculums and manage their own accreditation process. That is not the case in technical and further education or the vocational education and training sector, where accreditation is done through the State Accreditation Board and other similar national bodies. It is envisaged that at some time down the track the training council will delegate that capacity to institutions or providers that have reached certain levels of quality to be self-accrediting. However, I am a little persuaded to the member's view that the registering and deregistering of training providers should not be delegated. I do not know of any reason that it would be necessary to delegate that power, but I will need to take further advice on that.

Further consideration of the clause postponed until after consideration of clause 72, on motion by Hon N.F. Moore.

[Quorum formed.]

Clauses 29 and 30 put and passed.

Clause 31: Appeals against decisions of the Council -

Hon JOHN HALDEN: The Opposition does not object to clauses 31 to 33. That part of the process is quite reasonable. However, the Opposition has major concerns with clause 34.

Clause put and passed.

Clauses 32 and 33 put and passed.

Clause 34: Determination of appeal -

Hon JOHN HALDEN: As one works through the systematic steps involved in the process, subclause (5) must be of concern. Is a decision on an appeal under this clause final or is it subject to an appeal in a court of law?

Hon N.F. MOORE: It is final under this Act.

The advice I have is that a judicial review could not be sought over a decision; the review would be on the basis of whether the processes that were used to reach the final decision were carried out correctly. The decision would not be appealed; the processes that were gone through to arrive at the decision would be. In the event it could be demonstrated that the proper processes had not been abided by, relief would be provided by the court.

Hon JOHN HALDEN: That is one problem I foresee in this matter. I am pleased we got that clarification. There is an opportunity to appeal against the process; however, the more important issue is that of the facts. This process is one of Caesar appealing unto Caesar. I do not suggest that is bad on every occasion or that there would be bias, as is generally meant in that comment. In a process of Caesar appealing unto Caesar, as is established -

Hon A.J.G. MacTiernan: You are talking like the Attorney General.

Hon JOHN HALDEN: We would also have to allow a right of appeal for questions of fact or even decisions at law. In essence, no-one on this board will have any legal qualification or legal training. In these decisions there must be a final arbiter to ensure people on this panel, who are not legally qualified, have made appropriate decisions. I have tried to structure my comments about this part of the Bill to say that there is nothing wrong. That is why I accepted the first few clauses. There is nothing wrong with the process, except that, not for any deliberate reason, it may not

be a process that has gone through correctly - for example, in such issues as procedural fairness, adherence to the letter of the law of the land or assessment of the facts - virtue of the fact that Caesar is appealing unto Caesar.

In that situation there must be a right of appeal. It could be to the Minister or to a court. I suggest we should not cut off the right of appeal. I have already said that I am not enamoured of it. However, to not grant a right of appeal cuts back the rights of people. I am not suggesting there is any evil intent in this matter. I am hopeful the Minister may provide me with further information that might clarify my concerns. I also hope we might discuss this for a couple of minutes more so that I can revisit this issue. I think it is important that people should not be deprived of the opportunity for some judicial review in these decisions.

Hon N.F. MOORE: I need to go through this process. We are looking at a process where a council is set up with expertise to make decisions about a range of things. We are talking about appeals relating to its capacity to make decisions under clause 27(1)(a), (b), (c) and (d). That clause covers the council's functions to make decisions about qualifications, accreditation and all those things that go with its basic role. People can appeal against the board's decision. A process has been put in place under this legislation to allow people to be heard. The appeal is to the board initially. The board will set up an independent review panel which will hear the appeal and then submit its decision back to the board, which will refer it to the council. If the review panel upholds the appeal, it will go back to the council. If the council refuses to accept the decision, the board will make the ultimate decision. This is not a matter of Caesar appealing unto Caesar. The council will be making decisions on questions of fact. It will not be about questions of law or process; it will be about the content of the proposal for accredited courses or whatever the proposition happens to be. The matter will then go through this process of appeal which is assessed by an independent panel. In the event there is still disputation, the board will be the final arbiter about the facts of the matter. If there is a problem with the processes of law, further appeals can be made. The matter can be taken to some court where it can be argued that the proper processes were not followed.

Hon John Halden: There may well be other questions of law that this process does not deal with appropriately.

Hon N.F. MOORE: In that case I suggest appellants would take civil action in the courts if they felt it was a question of law. The appellants might not win, but they could have a go. The council, the technical body, will make a decision and the appeal against that decision will be to the board. The board will make the decision, and that is how it should be. The member seems to be suggesting that the appellants could then go to the District Court, and then to the Supreme Court and then to the High Court of Australia, for a decision on whether something should be in a training course. We are not dealing with matters of national interest; we are dealing with what should be in an accredited course and with matters that relate to the functions of the council. I cannot envisage a question of law coming into this matter that would cause someone to feel that some civil action was necessary. I can understand how people might be aggrieved by the process and say that it was not followed. In that case those people would have recourse to a judicial review.

Hon JOHN HALDEN: Let us look at the functions set out in clause 27. They could be quite significant. Decisions about those matters could have significant financial implications. Training providers can be deregistered. The accreditation of courses can be cancelled. It also deals with the recognition of qualifications and skills obtained in workplaces or educational institutions and the determination of the minimum competency standards, although that is not as relevant. These decisions could have significant implications in the private sector if providers are to be deregistered.

I understand the process that has been put in place, and I do not have a problem with it. However, an ultimate appeal to a judicial body should have been written into the legislation. That is not unwarranted. I will not pursue it any further. I just think that body or the Minister should have been the final arbiter of the processes, just to ensure that fairness is not only done, but also perceived to be done.

Clause put and passed.

Clause 35: Establishment of colleges -

Hon KIM CHANCE: This clause brings into question whether the colleges that will be established or reconstituted as a result of this Bill will be truly autonomous. This clause will allow for a college or part of a college to be amalgamated with another college or be closed. If this reminds people of the lengthy negotiations which have been conducted with respect to Kalgoorlie College, I think we are starting to see just how significant are the changes envisaged in this clause; yet it states simply that the Minister may, by order published in the *Government Gazette*, do certain things. Perhaps it is an oversimplification to say that is all the Minister needs to do, because clearly a

lengthy period of negotiation must take place; but nonetheless, to do things as fundamental to the operation of a college as, for example, amalgamate part of a college with another college simply by order published in the *Government Gazette,* seems to be an unwarranted interference in what should be the autonomous nature of a college. I understand that at some point in the process somebody must take responsibility for the establishment or closure of a college, and that must be actioned in a proper manner, and logically the only person who should be able to do that is the Minister; but to name or rename a college seems to be stepping way beyond the bounds of what the Minister, by order published in the *Government Gazette,* should have the power to do.

Hon N.F. MOORE: Under the current law, the Minister can do these things.

Hon Kim Chance: But we do not have autonomous colleges.

Hon N.F. MOORE: We do under the Colleges Act, and this is part of the Colleges Act wording. Similarly, the Minister for Education can do this in respect of schools now, but he does not just do it, because he is aware of the ramifications of decisions to amalgamate or close a particular school, and he puts in place processes to *Government Gazette*. At the end of the day, someone must decide that these things will happen, and that person should be the Minister on behalf of the Government, because he is spending taxpayers' money on government run colleges, so he should have the ultimate responsibility. I assure the member that no Minister in his right mind would decide to change the name of a college, put it in the *Government Gazette*, and expect to get no flak. However, I will retain the power to name colleges in the first place, because some of the suggestions that have been given to me for the names of colleges are unbelievable!

Any Minister with half a brain would make certain that he put in place processes for these decisions to be arrived at before he made the ultimate decision to create, amalgamate or close a college. Those things will be done by consultation, and I have no doubt commonsense will prevail in all cases, otherwise the political odium will be too enormous to bear.

Hon KIM CHANCE: I thank the Minister for clarifying that. The reason that I pointed to what is probably the least important aspect of the things which are permitted by this clause - that is, the naming or renaming of a college - was that the other factors mentioned, leaving aside those encompassed by paragraph (d), are fundamental factors which one would obviously want to ensure remain in the Minister's purview: The establishment, amalgamation and closure of colleges. In contrast to the fundamental nature of paragraphs (a) and (b), paragraph (c) seems to be relatively trivial. As I said, we need to leave (d) aside because I can understand why the more or less mechanical components of (d) are in the Bill. To include something which is by comparison with (a) and (b) almost peripheral in nature leaves open the question of what other aspects of the colleges' management should be specifically included in this clause. I cannot think what they might be, but if it is deemed necessary to include something as relatively inconsequential as the naming or renaming of a college, what other aspects should be included among the things which can be permitted by the publication of an order in the *Government Gazette*?

Hon N.F. Moore: The clause relates only to the establishment of colleges. The name is a significant issue in the scheme of this new arrangement.

Hon KIM CHANCE: I did say relatively inconsequential.

Hon N.F. Moore: For some people it is very consequential. For the Kalgoorlie university college, that was the most significant issue.

Hon KIM CHANCE: One thing that comes up, and one could argue that it is encompassed within paragraph (a), is the location of a college, for example. I suppose one could say that the establishment of a college encompasses the power to decide on its location, and that was an issue with Kalgoorlie College. A number of things should be remembered in the context of this clause that are not; perhaps I am jumping at shadows a bit. Paragraph (c) seemed to be out of context with the nature of paragraphs (a) and (b).

Clause put and passed.

Clause 36: Constitution of colleges -

Hon JOHN HALDEN: The Minister's explanation of the reason that the Minister for Training will be a body corporate is so that colleges, for example, can enter into contractual arrangements. In this clause, colleges will also be bodies corporate. Why is it necessary for both the Minister and colleges to be bodies corporate?

Hon N.F. MOORE: The explanation I gave was that some things happen system wide that require contractual arrangements that require a body corporate to enter into those arrangements. I gave the example of overseas activities that are currently carried out by the College of Customised Training, and that will disappear under this legislation. A body corporate on behalf of the Department of Training is required to enable those arrangements to be made internationally. The Minister's power will enable him to undertake those negotiations and enter into those agreements. The colleges will have the same capacity to enter into agreements. It is not intended that they will be involved in international activities, but they will enter into fee for service arrangements with local industries and joint ventures with private providers, or whatever they want to do. Therefore, they need the powers of a body corporate to enter into those negotiations and contracts.

Hon JOHN HALDEN: By virtue of making a college a body corporate, will a contractual arrangement it enters into then be claimed to be commercially confidential and, therefore, not under the purview of this place?

Hon N.F. MOORE: To the extent that some contractual arrangements contain commercial confidentiality - that exists from time to time - I have no doubt that the arrangements entered into would be very public arrangements and would be subject to consideration by this Chamber. Members have heard over many years that government agencies that have the capacity to enter into negotiations and commercial agreements from time to time are required to maintain commercial confidentiality for some aspects of the contract. I do not think that will change through this legislation.

Clause put and passed.

Clause 37 put and passed.

Clause 38: Vacation periods -

Hon JOHN HALDEN: Under this clause the Minister may, by order published in the *Government Gazette*, determine the vacation periods for colleges in each year. Why is that necessary? Considering the autonomy of the colleges and the regional requirements that may develop, that could easily be left to the colleges to determine. I concede that we may want them to gazette that. However, in the traditional vacation periods, tertiary institutions, and, I presume, TAFE institutions, are often closed for protracted periods. The best person to decide what is the appropriate time for a vacation period is not the Minister, but the college. This power should be devolved for sound individual management reasons to a college in a locality. I am at a loss to understand why there is a need for ministerial power in this area. Perhaps there is another reason this requirement is needed.

Hon N.F. MOORE: Some things will be system wide. For example, the enrolment process will be done on a system wide basis. It is therefore necessary for the college year to commence roughly at the same time in every college to fit in with the requirements of the tertiary entrance examination marking processes, the enrolment processes into TAFE, and the enrolment procedures generally across the system. There is a need for a reasonably uniform commencement time for tuition to begin. I do not consider this provision one by which the Minister will say that everybody shall do exactly as he or she is told. I see this as the Minister sitting down with the various colleges and saying that they must take into account the needs of the system and whether there must be uniformity in when holidays are held. Within those general system wide constraints I do not have an argument with some colleges deciding to have an extra week or take a week off. This is the ultimate end process of discussions and consultation between the colleges and of the Minister finally gazetting for the purposes of formalising it what the opening and closing dates will be in all the colleges throughout Western Australia. There may be variations from college to college.

Hon John Halden: I don't see why the Minister must be involved in that process, bearing in mind that the system will understand all of those centralised requirements you just put forward and that it can make those decisions equally well.

Hon N.F. MOORE: Who is the system? It could be the department. The department will do it on behalf of the Minister. It is a question of who takes responsibility for entering it into the *Government Gazette*. Either the Department of Training or the Minister for Employment and Training could have been included in this Bill. The Minister was included generally to represent the government agency that runs the system.

Clause put and passed.

Clause 39: Governing council -

Hon JOHN HALDEN: I move -

Page 29, after line 2 - To insert after the word "college" the following -

; and

(c) two persons who are members of the full-time academic staff of the college and who are elected by members of that staff in such manner as is prescribed;

(d) one person who is a member of the full-time salaried staff, other than academic staff, of the college, and who is elected by members of that staff in such manner as is prescribed;

(e) one person who is for the time being an enrolled student of the college, and who is elected by enrolled students of the college in such manner as is prescribed; and

(f) two persons appointed from time to time by the Minister on the recommendation of the other members of the Council.

(2a) A person whose whole or principal employment is that of a member of the staff of the college shall not be appointed under subsection (2)(a) or (f).

The Minister says in the second reading speech that the model for independent colleges and governing councils is to be based on the independent colleges. We all accept that. The only difficulty the Opposition sees in that framework is that the model within which all autonomous colleges are proposed to be framed is not the model of independent colleges. Through this amendment I endeavour to insert what currently exists for independent colleges into what the Minister proposes at clause 39(2)(a) and (b), which the Opposition accepts untouched. The Opposition seeks to add the other people who are currently on the board of the independent colleges. This system has seemingly worked well. To ensure that there is no isolation of one group, the board, from the other group - those who are in the institution, either working or learning - they should be able to have their input to the governing council in a direct way.

Seemingly, on the basis of what the Minister has said, that has worked particularly well. It is a question of developing a campus culture where people have the ability to input directly. This model, and there is nothing spectacular about it, must be the preferred option. It allows the Minister security in this arrangement because he can assure himself, as it were - I do not mean this offensively - of the numbers in the appointments under the existing provisions, but it allows for an effort to ensure there is no question of them and us, and there are clear lines of communication and input. Very importantly, it allows clear lines of ownership of the decisions made by the governing council. This is probably the most grassroots organisation that is legislatively formulated. If it is grassroots, it must be widely representative. The existing arrangements for independent colleges adequately cover that. It is no more than a reasonable approach that has worked. The Minister may say that he can appoint those people to the board, but if it is a board of only six, it will be top heavy with people on the campus and not contain the outside components which the Minister has said, and which we accept, must be on the board.

Hon N.F. MOORE: For the sake of uniformity it has always been the policy of the Government and my policy with my portfolios that we do not appoint people in a representative capacity. I have argued that for the State Training Board and Training Accreditation Council, and the same applies here. Hon John Halden is arguing for full time academic staff, salaried staff and enrolled students to have guaranteed positions on the board. I do not accept that on the basis that I have rejected representation on boards all the way through. Again, any Minister with half a brain would make sure the interests of those people were well and truly represented. I refer the member to the sort of people who will be appointed. They will be appointed for their experience and expertise in education and training, which clearly covers the people the member is seeking to include. They will also have expertise in industry or community affairs and an ability to contribute to the strategic direction of the college. That will require people of significant capacity and ability. That does not in any way suggest that staff or students will be excluded. I am not saying they should be excluded but that they should not automatically be included for all the reasons I have argued tonight for not continuing with tripartite bodies.

Amendment put and negatived.

Clause put and passed.

Clauses 40 to 42 put and passed.

Clause 43: Powers of a governing council -

Hon JOHN HALDEN: I seek clarification of clause 43(2). Paragraph (b) refers to awards and qualifications. Does that need to be or should it have been defined in the interpretation clause, because, as it is, I am not sure what we are talking about with awards and qualifications, particularly awards? The word "awards" is so open that it could mean a whole range of things. Qualifications would be better defined as to whether they will be at Australian scaling test standards, apprenticeship standards, diploma or graduate diploma standards or whatever. It would be beneficial if this paragraph were clear.

Paragraph (d) provides that the governing council may, on behalf of the college, provide housing for staff, and residential accommodation for students, of the college. I have no problems with that. It is appropriate that there be some further clarification of that paragraph so that equity issues may be addressed in order that we do not find that housing was provided to one person on the campus and to nobody else. We must clarify the object of what is proposed under that paragraph.

Paragraph (e) provides that the governing council may, on behalf of the college, provide, for a fee or otherwise, or enter into contracts to provide, products, consultancy or other services in the course of, or incidental to, the provision by the college of vocational education and training. I thought that to enter into fee for service arrangements, or contracts to provide products, or consultancies, previously required the approval of the Minister. Is that the case and, if it is, is this an oversight? I ask that because the Minister has consistently put forward a view that he needs certain powers to control this sector in the interests of the State. A case could be developed - I do not want to go over the top - for reasonable exposure by college/department/State in these areas. Ministerial control of these areas is probably required. I do not disagree with paragraph (f) -

Hon Kim Chance: Don't you? I do. Look at paragraph (f)(ii). You have to read that along with subclause (3). This is outside the State Supply Commission guidelines.

Hon JOHN HALDEN: Subclause (2)(f) poses a problem. I am pleased Hon Kim Chance turned the page and noticed this. The clause provides that the Department of Training could enter into certain arrangements not subject to the State Supply Commission. Now we find that the Bill will allow that power to be extended to colleges.

Hon Kim Chance: That is irresponsible.

Hon JOHN HALDEN: I implied earlier that it was irresponsible; I was not convinced by the Minister's previous argument. The justification does not exist for this power of governing councils. I will not rehash the arguments about how it has been done successfully under existing law and that there are exemptions. To confer this power on to governing councils is irresponsible. Under clause 9 it is a "power of the Minister". Why was it then a power of the Minister, which we have now accepted? If the Minister wants that power he has it, but surely he would not want to give it to governing councils per se.

Hon N.F. Moore: It is not given per se, it is with the approval of the Minister, but subject to conditions approved by the Treasurer.

Hon JOHN HALDEN: For the reasons we gave on that clause, to be consistent, we will oppose this. Governing councils should not have that latitude. We have argued that previously, but we will push the point again. It was not good law then and it is not good law now.

Hon Kim Chance: It is even worse here.

Hon N.F. MOORE: The words in subclause (2)(b) are straight from the Colleges Act. The word "confer" is the appropriate word. The awards and qualifications are as determined by the various processes for deciding what is a qualification and award. It gives the college the power to confer them, once students have obtained the necessary requirements. Under the issue of equity in subclause (2)(d) I refer again to clause 37(1)(d) which requires the college to promote equality of opportunity. That must be taken into account when looking at the idea of providing residential accommodation for students. Karratha College provides residential accommodation to allow students from inland areas to attend classes. That is all about equity and nothing else. The authority to implement paragraph (e) is under

clause 37(1)(b) to provide to an employer, a group of employers or any other persons or authorities such fee-for-service training programs as are authorised by the Minister.

With reference to paragraph (f) there are two aspects to the training systems that are being built-up. One is the autonomous colleges which will provide training and contractual arrangements in the provision of vocational education and training. They will be able to tender for the provision of those services. Then there is the system itself which involves the international requirements and arrangements. That is one of the reasons the Minister has the power. However, we are saying here that the Minister will give the colleges approval - they are stringent requirements and subject to the terms and conditions approved by the Treasurer - to participate in business arrangements relating to the provision of vocational education and training, for the purpose of etc. It would be ludicrous for the Minister to be able to enter into tendering arrangements for the colleges. If the Minister were responsible for all the tendering arrangements for the colleges that would take away a significant amount of their autonomy. The idea is that colleges will have the same powers with respect to tendering, but will also be exempt from the State Supply Commission Act and will act in accordance with the conditions approved by the Treasurer. They are significant safeguards, bearing in mind that colleges will be entering a tendering arrangement regularly for the education services we are talking about.

Hon KIM CHANCE: I hope we have not been misunderstood on this.

Hon N.F. Moore: No. I understand your concern, but I am trying to allay it.

Hon KIM CHANCE: I suppose the terms and conditions approved by the Treasurer may well be identical to the State Supply Commission guidelines, although not necessarily?

Hon N.F. Moore: Yes.

Clause put and passed.

Clause 44: By-laws -

Hon JOHN HALDEN: Why is it necessary to have ministerial approval in the making of bylaws under clause 44(b)? Surely paragraph (b)(i) is the responsibility of the college and/or the student association and should not require ministerial approval to function appropriately. Why is ministerial approval required for the provisions in subparagraph (ii). We are talking about autonomy, yet the Minister is able to veto matters not necessarily related to vocation or education, but far more to do with how a union is run. This little exercise is as obvious as the nose on my face and Hon Kim Chance was so bold as to point it out. As is my nature I was going to be much more subtle! It is quite clear that this is about giving the Minister power to intervene within a student association. There is no necessity for that. If the central premise of this legislation is autonomy, except where it is necessary for control by the Minister, this is not one of them and it is an absolute piece of personal "moorism" to insist that it be in this clause.

Hon N.F. MOORE: There is no such thing as personal moorism. Bearing in mind the governing council will make the by-laws initially - it then requires ticking by the Minister - the purpose of the Minister's involvement in this area is to ensure some reasonable uniformity across the system. In the event that I am the Minister when this comes into operation I will allow maximum flexibility on these matters because every college will be different. Where it is necessary to have some reasonable uniformity there should be a capacity for that to happen. This clause is taken from the Colleges Act; it exists at the present time.

Clause put and passed.

Clause 45: Delegation by governing council -

Hon JOHN HALDEN: I do not know why there is a need for this subdelegation power.

Hon N.F. MOORE: For all the reasons I have enunciated previously. There are occasions when subdelegation is necessary. It could be a whole different range of circumstances, but it would be used sparingly and only when absolutely necessary. There may come a time when one needs something done and no-one has a delegation to do it. This subdelegation power deals with that situation.

Clause put and passed.

Clause 46 put and passed.

Clause 47: College employees -

Hon JOHN HALDEN: Why does this clause not go further and outline the legislation covering the conditions of employment, such as the Public Sector Management Act? Will the employees not be employed under that Act and be subject to those conditions? They should be, bearing in mind the provisions in that Act. The issue of college employees should be further clarified.

Hon N.F. MOORE: It is not necessary to include the employees' working conditions in legislation; that would be taking it too far. However, a pamphlet has been issued on the establishment of colleges and the effect that will have on employees in the system. We have discussed it with the unions involved and they are satisfied with the processes put in place.

Hon John Halden: Are these people specifically subject to the Public Sector Management Act?

Hon N.F. MOORE: The pamphlet states -

> Colleges will be respondent to Part 5 of the Public Sector Management Act - Substandard Performance and Disciplinary Matters.
>
> "In this way, the entire Public Sector Management Act - with the exception of Part 3, which deals with the constitution of the public service - will apply to college staff.
>
> "This means recruitment, selection and other matters already mentioned, along with redeployment and redundancy as they currently apply to staff *will not change*.

Hon John Halden: That is in the pamphlet, but not the legislation.

Hon N.F. MOORE: It does not need to be in the legislation. That deal has been done between the department and the various unions. It has been agreed to in writing and the commitment has been made.

Hon JOHN HALDEN: I understand that. Surely there should be a legislative requirement so that it is clear that these people are required to work under the Public Sector Management Act and abide by the associated requirements thereof. I suggest this for quite positive reasons to do with performance, standards of behaviour and so on that are clearly set out. I agree with what the Minister is saying, except that he may well find that if it is not included at some point in the future an employee subject to some process under the Public Sector Management Act may point out that legislatively they are not covered by it.

Hon N.F. MOORE: I do not believe is it necessary to have this in the legislation. As I said earlier, we have reached agreement with the unions representing employees in the system. The awards applying now will continue to apply; this does not affect awards. I do not see any necessity to include employees' working conditions in legislation. The bottom line is that other legislation covers conditions of employment. We have already announced what the relationship will be; it is in writing. If people want to change someone's circumstances in future, they can change the legislation if they are so inclined. It is not necessary to go any further than clause 47, bearing in mind how far we have gone with employee representatives and the award conditions that will continue to apply.

Clause put and passed.

Clause 48: Funds of a college -

Hon KIM CHANCE: Will the Minister also consider deferring consideration of clause 48 until after clause 72? I do not want to change a word of clause 48. However, clause 48(b)(v) includes in the list of funds that are commercial funds, moneys donated by way of gifts, bequests or other voluntary contributions. When we look at all the other enumerated sources of funding involved in paragraphs (b) and (c) we see that they are all truly commercial sources and are appropriately named according to clause 49(2)(b) as moneys that form part of the commercial account. There is a reason for separating the gifts, bequests and other voluntary contributions from those funds that are deemed commercial funds. Clause 53 deals with the reason for that. It is contrary to the standing orders for me to discuss clause 53, but very broadly it gives the Minister the capacity to enforce a transfer of funds that are deemed to be of the commercial account of a college trust fund to some other place. In the context of this argument, I do not have

any dispute with the effect of clause 53 or clause 49(2)(b). When referring to clause 48(b)(v), it is not appropriate to treat gifts, bequests and other voluntary contributions in that way. They should be dealt with in this clause as a separate paragraph (d) and be separated from those funds which, according to clause 53, can be become a target for a Minister to move from one college to another. Whatever the arguments about clause 53 - obviously I cannot argue them now - bequests should not form part of the funding that can be transferred in that way. Indeed, I would be extremely concerned that the capacity to transfer bequest funds from a college in that way would be inclined to dry up the flow of bequests.

Hon N.F. MOORE: I appreciate the comments of Hon Kim Chance and I have some sympathy for his argument. I agree that donations and bequests should not be transferred from one college to another. I am not sure whether a guarantee would be acceptable or there is a need to amend the Bill.

Hon Kim Chance: All we need to do -

Hon N.F. MOORE: I know what we need to do, but we will probably have to amend the Bill. I do not know how many bequests TAFE colleges get. It is probably nil.

Hon Kim Chance: In the future Kalgoorlie could get a great many.

Hon N.F. MOORE: Perhaps the member is right. Rather than amend this clause now, I am happy to defer it for consideration to the end of this process. If it is necessary to make other amendments they can be made at that time. I do not want to delay this Bill for this one amendment, bearing in mind that in the short term it will not be any help. Once the Bill is amended it must go back to the other place and that will add to the delay of the process.

Further consideration of the clause postponed until after consideration of posponed clause 28, on motion by Hon N.F. Moore.

Clauses 49 to 51 put and passed.

Clause 52: Power to invest -

Hon JOHN HALDEN: Under this clause the governing council may, with the written approval of the Treasurer, invest any funds of the college that are not immediately required for the purposes of the legislation in the manner that moneys in the public bank account may be invested under the Financial Administration and Audit Act. It may be more prudent to allow Treasury to invest the money in a short term investment from which there would be significant gains because of the size of the pool of money Treasury is dealing with. To use the moneys in the way prescribed in the public bank account would not be to the long term advantage of the college. It would deliver to it less money. I understand that under existing legislation statutory authorities cannot invest in that way with Treasury, but that provision is about to be amended. Statutory authorities are clamouring to gain the benefit from being in this huge pool. If the Minister for Finance was not away on urgent parliamentary business I am sure he would be in a better position than the Minister or I to advise the Chamber on this issue. I had a briefing on this matter on Tuesday and I am sure that there are better benefits for statutory authorities and organisations, like those covered by this Bill, to allow Treasury to invest on their behalf instead of using the public bank account. This clause will not provide the best possible return on investments for colleges. I have raised this issue in an endeavour to try to secure more money for these institutions. The difficulty is that neither the Minister nor I have financial knowledge in this area.

Hon N.F. MOORE: This clause relates to clause 49(1)(b) which provides for a college to have a bank account. Currently, regional colleges have this investment arrangement. The Treasury's advice is that, with the written approval of the Treasurer, the colleges can invest money as provided for under this clause. It relates to only country and regional colleges which already have bank accounts and whose trust accounts are being maintained. I do not know whether the member's concern goes beyond that.

Hon John Halden: Legislative framework is about to be passed through this place which will provide for greater returns.

Hon N.F. MOORE: Extensive consultation took place with Treasury on this clause and it advised that this is the better way to go. I am sure it would be aware of any changes envisaged to investments.

Clause put and passed.

Clause 53: Minister may direct transfer of funds -

Hon KIM CHANCE: I have already touched on this clause in the context of clause 48. I do not know whether I agree with it. It is inconsistent with the concept of autonomy and it highlights an argument which both the Minister and I are painfully reminded of; that is, the equalisation of funds in the Office of the Country High School Hostels Authority. While it is somewhat different in its dynamics, it is exactly the same; for example, where a successful college or country high school hostel has its funds bled off to support those which have not been successful. Anyone who has been near the Narrogin hostel could not fail to be aware of that. I am concerned that a successful college can be bled off in that way. I am particularly concerned if those funds include bequest funds. What control will there be over the way the judgment is made about what is reasonably required? The Minister must be satisfied that there are funds in the commercial account of the college in excess of the amount required for the purposes of the account. How does the Minister envisage that judgment being made and who is likely to make it?

Hon N.F. MOORE: We are dealing with a state owned system. All the colleges which are independent, or will become independent under this Bill, are funded by the taxpayers of Western Australia. In other words, the capital provision is provided by the State. If this clause were not in this Bill some of the colleges which are in a more advantageous position than others and which can get into more lucrative niche markets could make a lot of money.

Hon Kim Chance: That is the argument of the Country High School Hostels Authority.

Hon N.F. MOORE: I know its argument very well because I became embroiled in it. Whoever tried to have a percentage above and below the operating costs tried to make an arbitrary decision. Irrespective of whether it was 25, 30 or 50 per cent, it would have been an arbitrary decision. Rather than doing that here, we have said that somebody, presumably the Minister, will make a judgment about whether a college has too much money and whether it should go to one that has not got enough. When that judgment is made it will be subject to enormous pressure.

Hon Kim Chance: It could place the Minister in a very invidious position.

Hon N.F. MOORE: Someone has to make that decision, because the colleges will not say, "We will give you some of ours." They will be seeking to maximise their positions. Colleges in Western Australia are not on a level playing field. If all colleges had identical opportunities to make money, this clause might not be needed. As the area gets competitive, the bigger colleges will get bigger and the smaller will find it hard to compete. I am trying to ensure that, if necessary, there is potential to level the playing field by transferring some of the excess funds - bearing in mind that they are commercial funds, not consolidated fund money - from one college to another. It is necessary for that power to be in the Bill. I would not want to be the Minister who does it for the first time.

Hon KIM CHANCE: I am inclined to agree with the Minister. We should support this clause. However, it is necessary to sound a word of warning. We agree that this clause is needed. Perhaps it should have been much more prescriptive. I know the Minister would not want that. The trend in legislation is to be less prescriptive so that the decision made at the time will accurately reflect the needs of the occasion.

Hon N.F. Moore: If you put in 25 per cent more than anybody else, nobody would get more than 25 per cent more than anybody else.

Hon KIM CHANCE: No. I think we should sound a warning that before this clause is used, it will be made more prescriptive by legislation. I guarantee that.

Clause put and passed.

Clauses 54 to 72 put and passed.

On motion by Hon N.F. Moore (Minister for Employment and Training), resolved -

That postponed clauses 28 and 48 be taken after the schedules.

Schedule 1 -

Hon JOHN HALDEN: Clause 1(2) of the schedule provides the Minister with a particularly broad power. However, there must be some limiting factors associated with that. That is an enormous power that I think should be qualified. In the new regime of autonomous colleges there is not a great need for the Minister to be required to grant leave of

absence, as outlined in clause 2. Surely the board or the governing council could do that. If there were concerns about a member not attending a meeting, perhaps the Minister could use a more prescribed power under clause 1(2) such as lack of attendance.

Hon N.F. MOORE: Clause 1(2) was put in at the suggestion of the State Training Board, which was given access to the draft legislation and asked to make recommendations. It was contemplating a number of scenarios where a person on a board or a governing council might for a variety of reasons render himself to be either incapable or inappropriately a member of a council. It thought about whether to do what Hon John Halden suggested; that is, to look at some exclusions such as non-attendance or whatever. However, it felt there could be so many reasons for people not being removed from one of these boards that to try to be prescriptive would be a very difficult task. It made the decision to include in the Bill the power for the Minister to terminate an appointment. I cannot imagine any Minister terminating an appointment and not giving an explanation for it. There are processes in the Parliament and so on to ask questions about why that had happened. However, it gives the Minister the capacity to deal with unusual circumstances that may arise from time to time and about which we would find it difficult to legislate.

Schedule put and passed.

Schedules 2 and 3 put and passed.

Schedule 4 -

Hon JOHN HALDEN: I accept that the power to vest property referred to in clause 3 is best vested in the Minister. Property may not be wanted for the purposes of the state training system but, more importantly, it may not be appropriate for the state training system for a number of reasons. Should the wording be "for the purpose of the State training system" or should there be a broader arrangement whereby it is vested in the Minister?

Hon N.F. MOORE: I am trying to imagine which property and assets of SESDA the Government would not want to use for the purposes of the state training system. Similarly, with respect to the colleges currently in the system under the Education Act and the lands and buildings of the independent colleges, I cannot imagine any of those that could not be used for the purposes of the state training system. It crosses my mind that it may include the capacity to sell any assets, with the funds being used within the state training system. I do not envisage any problem.

Hon JOHN HALDEN: It may well be that some antiquated property cannot be used for training purposes and it must be sold. I was concerned about whether it could be sold.

Hon N.F. Moore: I understand that it is possible, but I will double check.

Hon JOHN HALDEN: I refer to the colleges and technical colleges under clause 4 of this schedule and note that until a governing council or interim governing council of a college is established under the legislation, the Minister is taken to be the interim governing council of that college. In an earlier clause provision is made for the Minister to dismiss a council and give certain powers to the chief executive officer of the college. It may be appropriate to give some powers to the CEO rather than to the Minister in this instance, as happens when a local government council is dissolved by ministerial decision.

Hon N.F. Moore: The Minister can delegate his power and would do so.

Hon JOHN HALDEN: Could he do so under a transitional arrangement?

Hon N.F. Moore: Virtually all the powers of the Minister can be delegated.

Schedule put and passed.

Progress reported.

ADJOURNMENT OF THE HOUSE - SPECIAL

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [12.43 am] - without notice: I move -

That the House at its rising adjourn until 11.00 am today.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [12.43 am]: I will not object to this motion. However, I am not sure I can notify some of my members about this arrangement, of which I was advised at 7.30 this evening. It was mentioned, but not agreed to, a fortnight ago. It will not be a problem but I advise the Leader of the House that the Opposition would like earlier confirmation of arrangements such as this, because that will make life a little easier.

Question put and passed.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [12.44 am]: I move -

That the House do now adjourn.

Adjournment Debate - Sitting Arrangements

Hon N.F. MOORE: I deliberately leave it as late as possible to make decisions about a change to sitting times so that we can avoid them if possible. It is always my intention to sit within the prescribed hours if it is at all possible. I acknowledge the cooperation of the Opposition with respect to these matters, and look forward to finishing the building and construction industry training fund legislation tomorrow evening.

Adjournment Debate - Select Committee on Fisheries Department Debate; Northern Demersal Fishery Report

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [12.45 am]: I draw to the attention of the Minister for Transport, representing the Minister for Fisheries, his commitment which was reported in *Hansard* on Tuesday, 24 September. I raised a matter and referred to the Opposition's concern that it would not be dealt with in great haste, bearing in mind the Opposition's self-imposed time frame. The Minister said yesterday that he knew the Minister for Fisheries was not in the other place this week, but he would seek an update and would let me know the situation the following day. I do not yet know the situation but I look forward to some advice tomorrow as to how we shall proceed with this matter.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [12.46 am]: I am very happy to provide the information I have been able to ascertain. As I indicated to the Leader of the Opposition, the working group's report has been delivered to the Minister's office. The Minister requested clarification on a number of matters in the report.

Hon John Halden: I am not surprised.

Hon Kim Chance: It is contradictory in its recommendations.

Hon E.J. CHARLTON: Has Hon Kim Chance seen it?

Hon Kim Chance: I have spoken to a fisherman who was told by a member.

Hon E.J. CHARLTON: The Minister has requested clarification from the working group and the department. These points have not yet been clarified. The Minister is away but his people have given me an undertaking that as soon as they have that clarification, the Minister will be able to respond to the report. I genuinely want to deal with it.

Hon John Halden: I understand the difficulty.

Hon E.J. CHARLTON: The Minister has made a commitment that he will deal with the report as soon as possible.

Question put and passed.

House adjourned at 12.48 am (Thursday)

QUESTION ON NOTICE

BIRDS - MORTALITIES ASSOCIATED WITH TAILINGS DAMS

734. Hon J.A. SCOTT to the Leader of the House representing the Minister for Mines:

I refer the Minister for Mines to question 866 asked of the previous Minister for Mines in relation to the number of bird mortalities associated with tailings dams -

(1) Why did the Minister for Mines at the time advise that the Department of Minerals and Energy was not able to provide this information?

(2) Is it a requirement of mining tenement licences that any bird mortalities due to the drinking of tailings water be reported to the district mining engineers, such as found in ministerial conditions M53/34, No 22, which states that " . . . any bird mortalities due to drinking the tailings water being reported to the District Mining Engineers?"

(3) Given that this information is required as a ministerial condition, why did the previous Minister provide the answer he did to Parliament?

(4) If the Minister did not mislead Parliament, why did the Department of Minerals and Energy not inform the Minister that he had set those conditions?

(5) Did DOME withhold this information from the Minister and Parliament?

(6) If yes, what action will the Minister take against the department?

(7) Will the Minister supply a list of all tailings and leach facilities that have such a condition, or similar conditions, attached to them?

(8) How many bird mortalities, associated with tailings dams and leach vats, have occurred annually in Western Australia over the past five years?

Hon N.F. MOORE replied:

(1)-(3) The Department of Minerals and Energy does not have statistics on bird mortalities associated with the industry. However, a small number of the total mining tenements issued by the State has a condition on them requiring the department's officers to be informed of bird mortalities. As few tenements have this condition attached, no valid or meaningful assessment can be made by the department on annual bird mortality rates in Western Australia over the last five years.

(4)-(5) The Minister did not mislead the Parliament, and information was not withheld by the department.

(6) Not applicable.

(7) The very large number of mining tenements in existence and the need to check every tenement to see if such a condition or similar conditions have been placed on them would impose an impracticable burden on the limited resources available.

(8) The number of deaths is unknown but anecdotal information indicates that the incidence is minimal and it is sporadic in its distribution over the State.

QUESTIONS WITHOUT NOTICE

CONTRACTS - FACILITIES MANAGEMENT

853. **Hon TOM HELM to the Minister representing the Minister for Works:**

I ask this question on behalf of Hon Doug Wenn -

(1) Which companies have what can be described as "facilities management" contracts to provide services and/or purchasing for agencies under the Minister's control? Additionally, can the Minister advise what companies have been awarded preferred tenderer status to provide facilities management to agencies under his control?

(2) What is the total annual cost or estimated cost to the Government of purchases and services provided pursuant to each contract, and its duration?

(3) Can the Minister provide a brief description of the services provided under each contract?

(4) Will the Minister now table a copy of all such contracts?

Hon MAX EVANS replied:

I thank the member for some notice of this question. As the information sought will take considerable time to collate I ask the member to put the question on notice.

PERTH PHOTOCHEMICAL SMOG STUDY REPORT - PHOTOCOPIES DISTRIBUTED; EMBARGO

854. Hon J.A. SCOTT to the Minister for the Environment:

I refer to the photochemical smog study referred to at page 11 of *The West Australian* today.

(1) How many copies of the photochemical smog report were distributed?

(2) When were the copies distributed?

(3) What embargo was placed on the report when the copies were distributed?

(4) On what basis were the copies distributed?

(5) When and why was the embargo extended?

(6 When will the report be released to the public?

(7) Will the Minister provide a copy of the report to another important interest group by tabling the report in this place for the benefit of members; if not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question. As it happens, I have the same question from Hon John Cowdell, with a few variations. Great minds obviously think alike!

(1) A photocopy of the Perth photochemical smog study report has been received by the Asthma Foundation, the Bureau of Meteorology, the Chamber of Commerce and Industry, the City of Fremantle, the Conservation Council of WA, the Conservation of the Rockingham and Kwinana Environment Group, the Department of Conservation and Land Management, the Health Department, the Kwinana Industries Council, the Main Roads, the Ministry for Planning, the Motor Trades Association, the National Heart Foundation, the Perth City Council, the Royal Automobile Club Inc, and the WA Municipal Association.

(2) The photocopies were distributed between 19 and 25 September.

(3) Organisations receiving the photocopy were requested to hold any information contained in the report until its official release.

(4) The photocopies were distributed to "key air quality stakeholders" as a matter of courtesy prior to the official release of the Perth photochemical smog study report.

(5) A request was made to the key stakeholders on 23 September to extend the embargo because the Government wished to further develop its response to the public release of the report.

(6) The report will be officially released when the Government has considered further appropriate strategies for managing Perth's air quality.

(7) I will be happy to table it once it has been released.

CONTRACTS - FACILITIES MANAGEMENT

855. Hon JOHN HALDEN to the Minister for Employment and Training:

(1) Which companies have what can be described as "facilities management" contracts to provide services and/or purchasing for agencies under the Minister's control? Additionally, can the Minister advise what companies have been awarded preferred tenderer status to provide facilities management to agencies under his control?

(2) What is the total annual cost or estimated cost to the Government of purchases and services provided pursuant to each contract, and its duration?

(3) Can the Minister provide a brief description of the services provided under each contract?

(4) Will the Minister now table a copy of all such contracts?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The Department of Contract and Management Services has entered into contracts with the following companies to provide building management services to metropolitan colleges of the Western Australian Department of Training -

P&O Facilities Management Pty Ltd
Chieftons Management Pty Ltd
Serco Australia Pty Ltd
Transfield Maintenance Pty Ltd

The Western Australian Department of Training has entered into user service agreements with the Department of Contract and Management Services to obtain the required services.

(2) The Department of Contract and Management Services is responsible for the contracts with these companies. The Department of Training contributes only a portion of the overall contractual cost. Therefore, the Department of Training has knowledge only of the portion it contributes, which in this instance is $2.219m.

(3) Building maintenance and facilities services.

(4) The contracts are between the Department of Contract and Management Services and the companies, and are accordingly held by that department.

Hon John Halden: It is a shame that the Minister for Finance could not provide a similar answer!

CONTRACTS - FACILITIES MANAGEMENT

856. Hon KIM CHANCE to the Minister for Transport:

(1) Which companies have what can be described as "facilities management" contracts to provide services and/or purchasing for agencies under the Minister's control? Additionally, can the Minister advise what companies have been awarded preferred tenderer status to provide facilities management to agencies under his control?

(2) What is the total annual cost or estimated cost to the Government of purchases and services provided pursuant to each contract, and its duration?

(3) Can the Minister provide a brief description of the services provided under each contract?

(4) Will the Minister now table a copy of all such contracts?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. I am unable to respond to the question within the given time frame, and I suggest that the member place the question on notice. I will provide an answer as soon as I can.

CONTRACTS - FACILITIES MANAGEMENT

857. Hon KIM CHANCE to the Minister representing the Minister for Water Resources:

(1) Which companies have what can be described as "facilities management" contracts to provide services and/or purchasing for agencies under the Minister's control? Additionally, can the Minister advise what companies have been awarded preferred tenderer status to provide facilities management to agencies under his control?

(2) What is the total annual cost or estimated cost to the Government of purchases and services provided pursuant to each contract, and its duration?

(3) Can the Minister provide a brief description of the services provided under each contract?

(4) Will the Minister now table a copy of all such contracts?

Hon MAX EVANS replied:

I thank the member for some notice of this question. As it will take time to collate this information I ask that it be placed on notice.

WESTERN POWER - STATEMENT OF CORPORATE INTENT, DIVIDEND

858. Hon MARK NEVILL to the Leader of the House representing the Minister for Energy:

(1) Is the Minister aware that the statement of corporate intent of Western Power for 1995-96 proposed a dividend policy of 30 per cent and that the annual report reported a profit after tax of $86.2m, which would produce a dividend of $25.9m?

(2) Is the Minister aware that the annual report of Western Power for 1995-96 reported "dividends provided for or paid" of $25m but that the notes revealed that only $12.5m had been paid and the balance was a proposed final dividend?

(3) Has the balance been paid? If so, when; if not, when is it expected to be paid?

(4) What dividend is Western Power proposing for 1996-97?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes, the actual dividend is consistent with Western Power's statement of corporate intent for 1995-96.

(2) Yes.

(3) The final dividend of $12.5m is expected to be paid at the end of September 1996.

(4) The statement of corporate intent for 1996-97 is currently being finalised. Included in this document will be the dividend proposed by Western Power.

CONTRACTS - FACILITIES MANAGEMENT

859. Hon KIM CHANCE to the Attorney General representing the Minister for Health:

(1) Which companies have what can be described as "facilities management" contracts to provide services and/or purchasing for agencies under the Minister's control? Additionally, can the Minister advise what companies have been awarded preferred tenderer status to provide facilities management to agencies under his control?

(2) What is the total annual cost or estimated cost to the Government of purchases and services provided pursuant to each contract, and its duration?

(3) Can the Minister provide a brief description of the services provided under each contract?

(4) Will the Minister now table a copy of all such contracts?

Hon PETER FOSS replied:

Hope springs eternal in the breasts of certain people. The time that would be taken in the Health Department to collate that information is enormous. To ask it in a question without notice, even of which some notice has been given, is an unreasonable expectation. I ask the member to place the question on notice.

DIRECTOR OF PROSECUTIONS - PROSECUTION OF INDICTABLE OFFENCES, TAKEOVER PROPOSAL

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

(1) Has the Attorney General consulted the Director of Public Prosecutions about the timing of the exercise of his functions pursuant to sections 11 and 12 of the Director of Public Prosecutions Act; namely, the bringing of prosecutions under indictment and the conduct of prosecutions for indictable offences not on indictment?

(2) If so, when?

(3) Has the Attorney General directed the DPP on the timing of the exercise of those functions?

(4) If so, when; and what were the directions?

Hon PETER FOSS replied:

(1)-(4) I have consulted the Director of Public Prosecutions to find out what he has already agreed with the police. I understand he is thinking of taking over the prosecution of indictable offences some time next year.

DIRECTOR OF PROSECUTIONS - PEOPLE IN CUSTODY AWAITING TRIAL, PILOT PROGRAM

Hon N.D. GRIFFITHS to the Attorney General:

(1) Does the DPP propose to deal with the matter of people in custody awaiting trial by a pilot program?

(2) When will the pilot program commence?

(3) How many days after a person is placed in custody will the matter come before the DPP's office for assessment under the pilot program?

(4) How many lawyers will be involved in the pilot program?

(5) What is to occur to those persons in custody who are awaiting trial and not affected by the pilot program?

Hon PETER FOSS replied:

I ask that the question be put on notice.

JUSTICE, MINISTRY OF - BAIL HOSTELS, NUMBERS

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

What bail hostels currently operate in Western Australia?

Hon PETER FOSS replied:

This question should be directed to me as the Minister representing the Minister assisting the Minister for Justice.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND - BUILDING CONSTRUCTION INDUSTRY EMPLOYMENT TRAINING COUNCIL, ANNUAL REPORTS TABLING DELAY

862. Hon A.J.G. MacTIERNAN to the Minister for Employment and Training:

(1) Why has the Building and Construction Industry Training Fund and the Building Construction Industry Employment Training Council annual report for 1993-94 not yet been tabled in Parliament?

(2) Is it true that the chief executive officer of these agencies submitted a report to the Minister but that the Minister rejected the report and sent it back for rewriting?

(3) What aspect of the report did the Minister reject?

(4) Why has the matter not been finalised some two years after the end of the reporting year?

Hon Mark Nevill: He didn't like the photograph in it!

Hon N.F. MOORE replied:

That is probably the reason. I ask the member to place that question on notice and I will find out for her tomorrow.

Hon A.J.G. MacTiernan: You rejected it, Minister.

Hon N.F. MOORE: With respect, I will have to check the member's interpretation of events. I do not recall having rejected it. Then again, sometimes people do not remember everything they do.

CYCLONE BOBBY INQUEST - NEW INQUEST, LEGAL ADVICE TABLING

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

I refer to the inquest into the deaths at sea resulting from Cyclone Bobby and the Attorney General's letter of 4 September 1996 to Mr B. Elliott and Mrs M. Elliott in which he states, among other things -

> . . . I am not satisfied that the examination of the relevant issues was so deficient as to justify the public expense of further litigation and a new inquest. Also I do not believe, on the basis of the advice I have received, that I should give you the necessary authority to apply to the Supreme Court to seek an order that a new inquest be held.

(1) Will the Attorney General table the advice?

(2) If not, why not, given that he relies on the advice as a reason for his stance?

Hon PETER FOSS replied:

(1)-(2) No. The member should know by now that successive Governments and successive Ministers have always refused to table legal advice. I am surprised the member even bothers to ask that question.

PRISONS - SITES, EVALUATION PROCESS

864. Hon KIM CHANCE to the Attorney General:

I refer to the answer to question without notice 428 in which the Attorney General advised the House that the process of evaluation for suitable prison sites had not commenced. Has the process of evaluation for suitable prison sites now commenced?

Hon PETER FOSS replied:

I will have to take that question on notice because it is a question to me as Minister representing the Minister assisting the Minister for Justice.

PRISONS - SITES, NOWERGUP

865. Hon KIM CHANCE to the Attorney General:

I refer the Attorney General to an article in Tuesday's edition of the *Wanneroo Times* in which Hon Iain MacLean claims that the Attorney General had given a clear message that neither Nowergup nor any other site had been considered for a future prison.

(1) If the Attorney General is not responsible for prisons, how is it possible for the Attorney General to have given a clear message to Hon Iain MacLean that neither Nowergup nor any other sites had been considered for a future prison?

(2) Is Hon Iain MacLean correct to have claimed that no prison would be built at Nowergup, based on the advice of the Attorney General?

Hon PETER FOSS replied:

(1)-(2) Of course he is, because when the question was last asked it was referred to the Minister assisting the Minister for Justice and an answer was received. When that answer was received it was communicated in this House by me as Attorney General to Hon Iain MacLean. He therefore had a clear indication from the Attorney General as the Minister representing the Minister assisting the Minister for Justice that that was the case. Hon Kim Chance has asked me a further question and I am happy to ask the Minister assisting the Minister for Justice what the situation is. When I have done that, I will be able to give the member another clear indication. I will not suggest to the member that an inquiry has not started when I do not know. I do know that the answer I gave that Nowergup was not being considered was correct.

PERTH PHOTOCHEMICAL SMOG STUDY REPORT - PRIVATE REPORT

866. Hon J.A. SCOTT to the Minister for the Environment:

(1) Is the photochemical smog report a public report or a private report?

(2) Why does the Minister regard it as more important to provide special interest groups rather than members of Parliament with a copy of the photochemical smog report?

(3) Will the Minister provide me with a copy of the report so that I too can prepare a response?

Hon PETER FOSS replied:

(1)-(3) The answer to part (3) of the question is no. The answer to part (1) of the question is that it is a privately paid for report by Western Power. It is required pursuant to ministerial reasons, but it is a private report.

Hon N.D. Griffiths: Western Power is a public body.

Hon PETER FOSS: Yes.

Hon N.D. Griffiths: So it is a private report paid for by a public body?

Hon PETER FOSS: Does the member want to enter into a debate about this? It is a privately commissioned report and it will be made public. Like many things, I am damned if I do, and damned if I do not. On the one hand, if I had released the report without allowing those public interest groups to have the opportunity to comment on it, I would have been criticised when it went public for not being so good as to give them the opportunity to see it beforehand. On the other hand, if I give it to those groups, I am criticised because I have not made it public. Members opposite cannot have it both ways.

Several members interjected.

The PRESIDENT: Order!

Hon PETER FOSS: Members opposite cannot have it both ways. It is appropriate. When I release it in this House it will be public; that follows as a matter of course. If I were suddenly to table it, it would become public and the interest groups that wish to comment on it immediately it becomes public would say that I had deprived them of the opportunity to comment on it when it was made public. That is the sort of criticism I hear from members opposite. They are always going on about how appropriate consultation should take place and that people should be given an opportunity. When I do it, they say, "Me too."

Several members interjected.

The PRESIDENT: Order!

Hon PETER FOSS: There is an important point of principle here -

Point of Order

Hon TOM HELM: Mr President, can you advise the House when we can debate this lecture as it is not relevant to the question being asked?

The PRESIDENT: During the adjournment debate.

Questions Without Notice Resumed

Hon John Halden: I am sure the Minister is winding up his remarks.

The PRESIDENT: I remind the Minister, and all Ministers, that answers shall be concise, relevant and free from argument and controversial matter.

Hon PETER FOSS: The questions should also be non-provocative.

THE PRESIDENT: It is not a matter of that; I am talking about the answers.

Hon PETER FOSS: The important point of principle is that when people expect to have the capacity to comment on a report when it is publicly released, it is appropriate on certain occasions to give it to those people who wish to make an immediate comment in confidence -

Hon John Halden: We would have liked that opportunity.

Hon PETER FOSS: Under those circumstances, it is perfectly proper of the Government, and I would expect some criticism from the Opposition if I did not do that.

WESTRAIL - HARRIS, CRAIG, REDEPLOYMENT

867. Hon A.J.G. MacTIERNAN to the Minister for Transport:

(1) Did Mr Ross Drabble, in the presence of a member of the Minister's staff, give Westrail employee Mr Craig Harris a personal assurance that Mr Harris would not be out of pocket should he transfer from Coorow?

(2) Did Westrail renege on its promise to make up losses Mr Harris would incur in permanently transferring to Geraldton?

(3) Has Mr Harris' position in Coorow been abolished and has he been advised that he is to be transferred to Merredin?

(4) Given that the Public Sector Management Act defines suitable employment as that which does not require the employee to change residence, does Westrail consider that the job in Merredin constitutes a transfer to suitable employment as provided for under section 94(2)(a)(ii) of the Act?

Hon E.J. CHARLTON replied:

(1) Yes.

(2) No. Mr Harris approached the Commissioner of Railways for assistance with housing in connection with redeployment opportunities being pursued by him. The redeployment opportunities were with Westrail at Geraldton and as a prison officer at Geraldton. Mr Harris owns a house at Carnamah and the best offer he could attract for it is understood to be $25 000, which Westrail believes to be below his outstanding mortgage. Clearly, if Mr Harris were forced to sell his home for $25 000, he would be out of pocket. As a special case, the Commissioner of Railways agreed to purchase Mr Harris' house at Carnamah for $50 000 -

Hon Mark Nevill: People at Wittenoom got only $2 000.

Hon E.J. CHARLTON: This is Westrail; we care for people.

The PRESIDENT: Members should not go on to side tracks.

Hon E.J. CHARLTON: The purchase price of $50 000 should cover any losses Mr Harris may incur in connection with the sale of the house. In addition to this offer, the Commissioner of Railways also indicated his preparedness to sell Mr Harris a surplus Westrail house at Geraldton at a reasonable price. This arrangement was to apply regardless of Mr Harris' future employment with Westrail. Subsequently, Mr Harris claimed he was told by a Westrail officer that he would be paid $50 000 for his Carnamah house and be sold a house at Geraldton for $50 000 - that is, a swap - which was not the case.

(3) Mr Harris' position of depot officer, Coorow, was abolished as a consequence of Westrail's introduction of locomotive crew reforms and its modernisation program. He was advised accordingly on 24 January 1996. Following verbal advice to Mr Harris, he was formally advised on 19 February 1996 that he would remain at Coorow until June 1996 and, if required, he would be utilised on relief duties at Narngulu during that period. Also, he was informed that after June 1996 he would be required to undertake the options available to him, which include relocation within Westrail, redeployment with another government department or selective voluntary severance. At the same time, it was confirmed to Mr Harris that there were no vacancies to which he could transfer at his alternative preferred locations of Narngulu and Perth. It is understood that Mr Harris failed to meet the health and fitness standard for the position of prison officer at Geraldton, but was given three months to meet the requirements. It is further understood that Mr Harris chose not to take any action to meet the standard.

On 13 August 1996, Mr Harris was formally advised the options available to him were redeployment in the Prisons Department at Geraldton and accept the offer from Westrail to purchase his residence for $50 000 and Westrail to sell him a departmental house at market value or he could make his own housing arrangements in Geraldton. This option was in line with the Prisons Department training course that he was to complete at the end of that week. He could also remain stationed at Coorow for the short term - approximately three to six months - during which time he would be utilised on relief at other depots according to Westrail's working requirements. At the end of this period he would be transferred to another location suitable to Westrail operations. In addition, he could consider leaving Westrail under the selective voluntary severance scheme. On 12 September 1996, Mr Harris was formally advised that there was a job available to him, with Westrail, at Merredin in a relief capacity, at this stage, and that he was required to report there at 8.00 am on 20 September 1996, travelling to Merredin on 19 September. He was also informed that there would be an opportunity for permanent appointment and transfer to a position at West Merredin in the near future. On 18 September 1996, Mr Harris made it clear to an officer at my office that he would not take up the relief job at Merredin and that he would book off on sick leave. On 19 September, Mr Harris informed Westrail that he would not be taking up the position at Merredin and that he would obtain a medical certificate for his absence from work.

(4) The Public Sector Management Act does not place any restriction on Westrail's ability to require an employee to work temporarily away from that employee's home station. With respect to the permanent transfer of staff, it is understood that Westrail's power to compulsorily transfer employees is limited to internal transfers or is dependent upon a suitable offer of employment being received by an employee from a person outside the public sector.

TAFE - FEE-FOR-SERVICE COURSES

868. Hon JOHN HALDEN to the Minister for Employment and Training:

In response to question without notice 852 the Minister said in part (2) that the cost of providing fee-for-service courses in 1995-96 was $10 191 888. Will the Minister now provide a breakdown of the figures provided yesterday?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I assume that he wants the breakdown of which colleges deliver.

Hon John Halden: No.

Hon N.F. MOORE: The answer I have lists how much has been spent by each college. If the member wants something different he might ask a different question. However, the figures are as follows -

Central Metropolitan College	$1 382 324
South Metropolitan College	$2 656 999
North Metropolitan College	$1 373 363
South East Metropolitan College	$823 500
Midland Regional College	$500 480
Great Southern Regional College	$53 423
Geraldton Regional College	$218 400
South West Regional College	$546 000
Advance Manufacturing Technologies Centre	$405 941
TAFE International	$2 231 458

ANIMAL WELFARE LEGISLATION - INTRODUCTION DATE

869. Hon KIM CHANCE to the Minister representing the Minister for Local Government:

When does the Minister expect to introduce legislation dealing with animal welfare?

Hon E.J. CHARLTON replied:

The Minister for Local Government has provided me with the following reply -

> Approval to draft the Animal Welfare Bill has been given by Cabinet but departmental resources have been required to finalise the Local Government Act 1995 and its implementation. Drafting instructions have been prepared for Parliamentary Counsel, but it is unlikely that the Bill will be passed this year.

WORKSAFE WA - DEMOLITION INDUSTRY, LICENSING CONSIDERATION; NEW REGULATIONS

870. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Labour Relations:

(1) Did the demolition industry subcommittee of the Occupational Health and Safety Regulation Review Committee deliberate on the question of licensing of the demolition industry?

(2) If yes, what were the results of those deliberations?

(3) If no, what consideration has the Government given to regulating the industry as recommended by the coroner inquiring into the death of Travis Hazeldean?

Hon MAX EVANS replied:

The Minister for Labour Relations has provided the following reply -

(1) WorkSafe Western Australia Commission's regulation review advisory committee considered the issue of licensing in the demolition industry on a number of occasions between 1992 and 1996.

(2) WorkSafe Western Australia Commission's regulation review advisory committee did not reach consensus on licensing in the demolition industry.

(3) New regulations announced today by the Minister for Labour Relations, applying from 1 October 1996, specifically addressed the problem of unqualified people conducting demolition work. The new occupational health and safety regulations will require demolition supervisors to have a building trade qualification or builders registration and at least thee years' appropriate experience.

POLICE SERVICE - BUNBURY, NEW STATION

Feasibility Study Contract

871. Hon TOM HELM to the Attorney General representing the Minister for Police:

I ask this question on behalf of Hon Doug Wenn. Further to question without notice 778 of 17 September 1996, when the Minister answered that a specific date could not be set and that it is proposed the contract would be advertised in early 1997, why can a specific date not be advised for contract advertising?

Hon PETER FOSS replied:

I thank the member for some notice of this question. The planning for this project will be progressed in accordance with the Western Australian Government's project initiation process and a feasibility study forms part of that process. Quite clearly, a whole range of issues need to be addressed in the feasibility study, and as a result it should be obvious to anyone that no date can be set for the advertising of the contract until the preliminary work has been finalised.

MICKELBERG CASE - EVIDENCE

872. Hon MARK NEVILL to the Attorney General:

Further to question without notice 825 about the Mickelberg case, which is not a duplicate of question on notice 554 -

(1) Does the Director of Public Prosecutions recall he advised the High Court that there was no evidence of rubber hands and moulds being taken from Raymond Mickelberg's house?

(2) Is the DPP aware that evidence at the trial given by Peter and Sheryl Mickelberg claimed rubber hands and moulds were taken?

(3) Is the DPP aware that the evidence was not challenged?

Hon PETER FOSS replied:

(1) No; on the contrary. At page 212 and the following of the transcript of the High Court hearing of 26 October 1988, Mr McKechnie told the court that the evidence at trial was that rubber hands were taken. Mr McKechnie in fact read to the court excerpts from the evidence of both Sheryl and Peter Mickelberg. The evidence was challenged at trial by evidence from police officers.

(2) Yes.

(3) -