FREEDOM OF INFORMATION ACT

Urgency Motion

THE PRESIDENT (Hon George Cash): I received the following letter this morning -

> Dear Mr President
>
> At today's sitting it is my intention to move under SO72 that the House at its rising adjourn until 9am on 25 December 2000 for the purpose of condemning the Court Government's failure to conduct a genuine and comprehensive review of the Freedom of Information Act 1992, the reliance of Government agencies on exemptions within the Act and consequent implications for government accountability, and calls on the Premier to immediately instruct all agencies to operate within the spirit of the Act.
>
> Yours sincerely
>
> Hon Ljiljanna Ravlich MLC
> Member for East Metropolitan Region

The standing orders require at least four members to stand in their places in support of the motion before it may proceed.

[At least four members rose in their places.]

HON LJILJANNA RAVLICH (East Metropolitan) [3.35 pm]: I move -

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

The Freedom of Information Act is a hopeless Act; anyone who has dealt with it extensively would have come to that realisation. A reason that this Act is almost obsolete is that the nature of government has changed over time. Given the increase in commercialisation of government, the Act is becoming less and less relevant. Furthermore, government agencies do not operate within the spirit of the Act, and this has been recognised by the Information Commissioner for some time. In the 1997-98 annual report, she stated that a wide-ranging and comprehensive review of FOI is needed to fully explore the implications for accountability, and particularly for FOI, resulting from changes that are occurring in government agencies. The Australian Labor Party fully supports the commissioner in her call; hence the motion before the House today.

Since becoming a member of Parliament, I have, through my office, made at least 40 freedom of information applications across a wide range of government agencies. I put on public record that I have been nothing short of disgusted by the extent to which agencies try to withhold information. What is clear to me is that there is no openness or accountability in the Court Government. In fact, it is a secretive, closed, small-minded Government that is full of rhetoric but no substance in its claim of accountability and openness.

The FOI Act is supposedly built on three key principles: First, human rights and privacy, thereby enabling people to gain access to information about themselves; secondly, accountability and open government - the Act enables the Government to be open to public scrutiny; and, thirdly, democratic participation to allow public participation in the policy process of government. My experience is that the Act fails on all three principles.

Although the Act was reviewed in 1996 in accordance with a provision of the Act that it be reviewed after a three-year period, no substantial changes were made as a result of that review because no substantial changes were recommended. I find it hard to believe that a review of the Act could produce no recommendation to make changes, because my experience of dealing with the Act is that it is outdated and very much in need of change.

Although the FOI laws appear to deal with the question of access, there are 15 exemption clauses in the Western Australian legislation. Of greatest concern is a recent ruling by the Information Commissioner in relation to an arrangement between Western Power and Brown and Root AOC for the establishment of a joint venture company called Integrated Power Services Pty Ltd. This ruling renders the FOI Act almost redundant. Under the ruling, many agencies are increasingly denying access to very important information. It relates to schedule 1, section 8(1), titled "confidential communications", which reads -

Matter is exempt matter if its disclosure (otherwise than under this Act or another written law) would be a breach of confidence for which a legal remedy could be obtained.

Many public sector agencies enter into confidentiality agreements with private sector organisations as part of their contracting arrangements. They then claim exemption under section 8(1) of schedule 1 of the Act, arguing that the release of the information into the public domain would be a breach of confidence and legal remedy could be obtained from the private sector contractor; therefore, no information can be disclosed to the public. That is not good enough. Given that the Act was passed in the 1992, when the level of commercial activity might have compromised 10 per cent of the Government's business -

Hon Peter Foss: You've got to be kidding! Most of the budget was spent on your useless things!

Hon LJILJANNA RAVLICH: The Attorney General will have his turn.

This Government spends $6b purchasing goods, services and works - a substantial amount of money - yet nothing is released in the public domain about the commercial arrangements entered into. All government agencies hide behind the limited provision of the Freedom of Information Act.

My argument is simple. This Act is increasingly obsolete because contracting out and procurement might have represented 5 or 10 per cent of government activity in the past, but these days it comprises about 80 per cent of government activity. Therefore, this Act is no longer capable of meeting the requirements of government as established under the Court Government.

Another area of concern is the entire matter of government trading enterprises and how they relate to the FOI Act. Government trading enterprises have no regard for the FOI Act, which is particularly sad. In a recent example the Water Corporation said that its job was to make profits; therefore, it was not a public sector agency as defined by the Act and should not release any information publicly. The Information Commissioner ruled otherwise. I do not uphold the view that government trading enterprises are designed purely to make a profit. They are public sector agencies. Sure, they have a commercial bent, but that should not be their priority. No government trading enterprises are exempt under the schedule of exceptions in the Act. However, all government trading enterprises, to my knowledge, go to great lengths to ensure that commercial arrangements with private operators contain confidentiality clauses, which effectively makes them exempt under section 8(1) of schedule 1 of the FOI Act.

Government trading enterprises argue that their primary role is to make a profit. We need a public and open debate about what we expect from government trading enterprises and we need to outline their role in the public sector. These enterprises borrow people's money at cheap rates from Treasury. If their business arrangements with the private sector go belly up, these enterprises will recoup losses in a fundamental way; namely, through increased charges to Western Australians. It is a fallacious argument to suggest that they should be exempt because they are commercial entities with a sole role of profit making. Government trading enterprises also argue that releasing information would put them at a commercial disadvantage. That is nonsense. Government trading enterprises for the most part are monopolies in this State. How can a monopoly be disadvantaged by making commercial information available publicly? Undoubtedly, the failure of such agencies to act within the spirit of the law renders the FOI Act and the Information Commissioner powerless in this area.

We face many problems in trying to obtain information through FOI. The length of time to process applications is a factor, with a statutory 45-day deadline. In reality, it takes the full 45 days to process applications whether they be small or large. In a recent case, the Western Australian Department of Transport took the full 45 days to write back to say that no documents fell into the ambit of our application. It is poor to take 45 days to tell people they will get nothing. Agencies use a variety of stalling tactics to prolong applications. For example, the Integrated Power Services application I made with Western Power went well over a year. It has been recorded that agencies impose huge charges when they do not want people to access information. The Crown Solicitor's Office recently attempted to charge my office $30 000 for an application to access a review of the State Supply Commission Act. This figure was later reduced to $7 500, and the commissioner ruled that I should pay $260. Members can see the extremes in charges imposed. That fee was supposed to put me off the scent and make me a good girl and go away. It did not work. A worrying aspect is that the Crown Solicitor's Office gives many agencies advice on how to deal with applications. What a joke! This agency is supposed to uphold the spirit of the legislation, yet it did the wrong thing by me and the Western Australian public!

Hon Peter Foss: I will reply to that!

Hon LJILJANNA RAVLICH: I do not care. Its actions are indefensible.

Hon Peter Foss: You behave like a spoilt child. I will prove it.

Hon LJILJANNA RAVLICH: The Attorney General will get his turn, but he cannot defend the indefensible, and he knows it.

Exemptions are also claimed on technical grounds. When an inquiry was under way at C.Y. O'Connor College of Technical and Further Education, I made an FOI application regarding the commercial activities of the Australian Academy of Business Development at the South East Metropolitan College of TAFE. I do not know whether it was coincidental, but two days later the police were called in to investigate the commercial activities of the college. I was told by the department that I could not access the information because a police inquiry was under way. These are the lengths to which government agencies will go.

The FOI Act needs to be rewritten to reflect the changed business of government. The Western Australian Act is no longer relevant to the model of government in this State and does not serve the public interest. As a member of the Western Australian public, and a member of Parliament intent on doing a good job on behalf of the people who have put me in this place, I am sick and tired of the excuses made to prevent access to a workable FOI Act. The public has a right to such an Act. This Government does not give a toss about the workability of the FOI Act, and does not give a hoot about whether the public has an open and accountable Government. Everything demonstrates that the Government acts to the contrary. The Government has failed to ensure that we have a workable FOI Act, and it has systematically condoned the poor behaviour of government agencies. No-one hauled in anyone from the Crown Solicitor's Office regarding its exaggerated charge to me of $30 000. This Government simply does not care. The responsibility for this situation rests with the Premier. The Premier is responsible for public sector management. The Premier is not providing the direction and leadership to government agencies to enable them to act in the spirit of this law. I implore him to do something in order to salvage this absolute mess before us. I call on him to urgently instruct all government agencies to work in the spirit of the law. If he is not prepared to do so little, given the time that has elapsed, he should step down from his job as he is not worthy of holding such a position.

HON PETER FOSS (East Metropolitan - Attorney General) [3.50 pm]: If I were the Leader of the Opposition I would now move for a committee of privilege to inquire into the false assertions made by Hon Ljiljanna Ravlich, who purported to quote from the Information Commissioner's report and made all kinds of assertions which are totally and utterly false.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: Hon Ljiljanna Ravlich had 15 minutes. I get only 10 minutes so she should be quiet.

The PRESIDENT: Order, members! The rules are the same for every member. This is an urgency motion which has very limited time for debate. As I said before, we do not need interjections.

Hon PETER FOSS: The commissioner's report, which Hon Ljiljanna Ravlich purported to be referring to, shows the considerable number of applications. The average time taken to deal with applications began with a high of just below 24 days and has been distinctly reduced to just more than 21 days now. The average charges were high in the first year, rose slightly in the following three years and reduced significantly in the past year. The interesting aspect of this matter is the outrageous statement made by Hon Ljiljanna Ravlich about the outcome.

The commissioner's report shows the outcome of decisions in which full access was granted increased significantly over time. Edited access gradually increased, the reason for that being that people decide not to opt for third party consultation as it can considerably increase the time and cost of carrying out the process. However, there has been hardly any increase in instances in which access has been refused. Therefore, despite the statements made by Hon Ljiljanna Ravlich, she is wrong. She led us to believe that she had been reading the commissioner's report and, obviously, she had not been reading the report because she proceeded to make it up.

The commissioner made a statement recently and the extract reported by *The West Australian* tended not to be the good part. However, during her speech she commended the WA legislation compared with other legislation in Australia, although she has a long agenda for reform. She commented on the generally high standard of performance in public sector agencies with regard to management of the freedom of information legislation. The interesting aspect is that the previous Labor Government promised FOI in every single election it held.

Hon Tom Stephens: And we delivered it.

Hon Ljiljanna Ravlich: And we delivered it.

Hon PETER FOSS: Yes, you promised it for four years and did nothing.

The PRESIDENT: Order! Hon Ljiljanna Ravlich was heard in relative silence. I want to hear the Attorney General.

Hon PETER FOSS: And she gets a reply.

The previous Labor Government had three successive elections when it promised freedom of information legislation. When did it bring it in? When the Government knew that it was so on the nose that it was on its way out. Did it even proclaim the legislation then? No. Who proclaimed it? We did. What did the previous Labor Government do? Despite saying three times to the people of Western Australia that it would bring in FOI legislation, it did not bring it in and did not proclaim it.

Hon Tom Stephens: Why didn't you fix up the proclamation date?

Hon PETER FOSS: The previous Labor Government was absolutely cowardly. It did not proclaim the legislation because of the dirty little tricks that it was up to when it was in government. There was no way that it wanted anybody to see the legislation.

We have excellent FOI legislation, and I do not say that from a partisan point of view. I refer members to an acknowledgement that we have the best FOI legislation in Australia. If members do not believe me, they can read *The Australian* of 19 August 1999 which rated, in order, the freedom of information laws in Australia. I will read them in order starting with the worst State: Queensland, Victoria, the Commonwealth, New South Wales, South Australia, Tasmania; and the best of them all is Western Australia. Therefore, when making her statements, Hon Ljiljanna Ravlich does not even bother to put her feet on the ground and check whether there is any reality in them. She was wrong about the time the FOI applications take; she should look at the commissioner's figures. She was wrong about the cost; she should see the commissioner's figures. She was wrong about the amount of access given; she should see the commissioner's figures. Why does she stand up in this House, supposedly calling on the Information Commissioner as her authority, and not even bother to look at the commissioner's figures? Hon Ljiljanna Ravlich deceived this House in the way she represented the commissioner's report. This review has been advertised and has been on my Internet site -

Hon Ljiljanna Ravlich: Table the commission's information.

Hon PETER FOSS: Why does Hon Ljiljanna Ravlich not shut up? She will have another five minutes later.

The PRESIDENT: Hon Ljiljanna Ravlich will come to order.

Hon PETER FOSS: The review was advertised. Did Hon Ljiljanna Ravlich bother to make a submission? She could have made a submission as the Information Commission continued to take submissions right up to the time it provided the report to me. Only one member of the Opposition, Mr John Kobelke, bothered to make a submission; that is how difficult the Opposition found the FOI laws.

Hon Ken Travers: He is our shadow spokesperson.

Hon PETER FOSS: Many people can make submissions. There is nothing to say that only a shadow spokesperson can make a submission; why did other members not do it? Very few people made submissions. If it was such a problem, why did more members not make submissions? The only person who has a problem is Hon Ljiljanna Ravlich and I will deal with that because, as I said, she behaved like a spoilt brat recently -

Hon Ljiljanna Ravlich: When?

Hon PETER FOSS: - when she dealt with the application to the Crown Solicitor's Office. I would like to tell members what really happened.

Hon Ljiljanna Ravlich: I was quoted $30 000.

The PRESIDENT: Order! If Hon Ljiljanna Ravlich wants to hear the minister, she should stop interjecting otherwise she will find it difficult from outside the Chamber.

Hon PETER FOSS: The Crown Solicitor's Office carefully followed the rules for dealing with FOI applications. One of the first things it is obliged to do is tell people how much it will cost if they go ahead with their requests. It then offers people an opportunity to narrow their requests. When Hon Ljiljanna Ravlich put in her usual compendious, omnibus request, she received a letter from Mr Gotse telling her that he believed the documents falling within the ambit of the access application were held by at least 130 other agencies. He estimated that the ministry held 20 000 folios, it would take three minutes to deal with each folio which would be more than 1 000 hours, and the charge, on that basis, would be $30 000.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: The Crown Solicitor's Office is required to do that by law.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: Why does Hon Ljiljanna Ravlich not shut her little mouth for a while and open her ears.

Point of Order

Hon LJILJANNA RAVLICH: That remark is unparliamentary.

The PRESIDENT: Many remarks are unparliamentary; however, it depends on the context in which they are said. If the Attorney General and Hon Ljiljanna Ravlich want to have a catfight, other members would be happy for that to occur outside the Chamber. There is no point of order. I have asked Hon Ljiljanna Ravlich to come to

order so that we can hear the Attorney General in relative silence. Hon Ljiljanna Ravlich has a right of reply, if there is time. However, she spoils it for other members in the meantime by interjecting. If the Attorney General directs his comments to the Chair and does not personalise them, there might be fewer interjections.

Debate Resumed

Hon PETER FOSS: I apologise. I was trying to stop Hon Ljiljanna Ravlich from interrupting as I was finding difficulty getting my words across to you, Sir.

As also required by the law, the letter asked whether Hon Ljiljanna Ravlich wished to proceed with the access application or, alternatively, to reduce the ambit of the application. In June, Hon Ljiljanna Ravlich asked for a summary of documents and was given a list specifying 11 categories. She was again asked whether she would like to reduce the ambit of the application. There was a telephone conversation about that and at the conclusion she narrowed the ambit of her access application. The commission wrote to her again saying that the application had been reduced to 2 000 folios which would take 200 hours. Another letter followed from Hon Ljiljanna Ravlich narrowing the ambit of the access application. This went on until eventually the number of documents she wanted came down from many thousands to about 60. That application was dealt with by Miss Gugliotta of the Crown Solicitor's Office who is obviously a bit more reasonable than the spoilt brat opposite who is insisting on this matter.

Hon Ljiljanna Ravlich: I object to that.

Hon PETER FOSS: The fact is that if people ask for a large quantity of documents, agencies are obliged to tell them that it will cost a great deal of money and it would be easier if the application were narrowed down. Therefore, the application went from 20 000 folios to 60 documents. There is a world of difference between getting the full range of information and a small amount of information. The Information Commissioner followed the request to the spirit. Typically, Hon Ljiljanna Ravlich asks for immense amounts of information from the Information Commissioner and expects everything to be done for free. She should narrow the ambit down to what she needs. Until some reasonable person, such as Miss Julie Otter from the commissioner's office interposes, she continues to seek thousands of documents.

Hon Ken Travers: Did you discuss that application with the Crown Solicitor? You are on the record as saying you discussed FOI applications in the past.

Hon PETER FOSS: I did not. I received a report on it afterwards. The first I knew about this issue was when I saw a report in the newspaper. I have asked for a report. Most important, I received a report from the Crown Solicitor's Office that indicated the commissioner's office had acted properly both in law and in spirit. Not wishing to take purely the view of the Crown Solicitor's Office, I asked the Crown Solicitor and the Solicitor General for their confirmation. Both of them said the problem arose with Hon Ljiljanna Ravlich. The Information Commissioner acted on it properly in the spirit of the Act, and the person who caused all the problems was Ms Ravlich.

However, I happen to disagree with the commissioner on the fees; I do not think she was entitled to do what she did, but there is no right of appeal. I will raise that point of law at some other stage and ensure it is determined. The truth is, Hon Ljiljanna Ravlich behaved like a spoilt brat. She demonstrated the sort behaviour she shows when she stands in this House on other issues, and misrepresented what the FOI Commissioner said about her performance and the time taken to provide information. The facts from the commissioner are on the record.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: Hon Ljiljanna Ravlich should keep quiet.

Hon Ljiljanna Ravlich: Why are you so heated up?

The PRESIDENT: Order!

Hon PETER FOSS: I am having to speak louder and louder because Hon Ljiljanna Ravlich keeps interrupting.

HON HELEN HODGSON (North Metropolitan) [4.01 pm]: I do not want to be seen to be interfering in any personal issues arising in the Chamber at present! I would like to talk about some of the issues that are pertinent to the Freedom of Information Act. One of the acknowledged authorities on administrative law in Australia, Professor Stan Hotop, said in his text on administrative law -

> Official secrecy is a time-honoured tradition in Anglo-Australian government administration. It has been described by Professor Campbell as "a legacy from the times when public administration was simply an extension of the Crown's administration of its properties, when the distinction between private and public administration was by no means clear cut".

Hon Barry House interjected.

Hon HELEN HODGSON: I have the Commission on Government recommendations also, so members will hear about those in a few moments. Basically, freedom of information is relatively new in administrative law in this country. The Western Australian legislation is among the newest, having been proclaimed only seven years ago. It is interesting to look again at the principles of the Act. Section 3(1) reads -

> The objects of this Act are to -
>
> (a) enable the public to participate more effectively in governing the State; and
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> (b) make the persons and bodies that are responsible for State and local government more accountable to the public.

The problem with that is it looks as though the FOI Act is intended to be the vehicle through which the public can gain access to information about what is going on within government. I do not agree that that is the correct way to ensure the public has access to what is occurring. I have said in this Chamber time and again that information should be made available through this Parliament so that members of Parliament and members of the public have access to it.

Among some articles tucked away in my files I found one dated June 1995 that refers to a submission to the Western Australian Discussion Paper No 1 "The Secrecy Laws of the State and Cabinet secrecy" when the Information Commissioner made a number of important recommendations concerning the Freedom of Information Act. It is interesting that they have not come through the FOI review. Some of the issues identified in 1995, after 18 months of operation, included the need for a public interest test to apply to all exemptions in schedule 1 of the FOI Act. Surprise, surprise; that was also a recommendation of the Commission on Government which referred to the need for a public interest test in the use of exemptions. Further recommendations are -

> The existing secrecy provisions in various statutes in Western Australia should be repealed and replaced with a statutory framework . . .
>
> No legislation should be enacted which precludes the operation of FOI in respect of current or future statutes . . .

I have been a party in this Chamber to that occurring. In that case I was willing to accept that it was appropriate. However, it caused me some consternation to think we were passing legislation that precluded the application of FOI. A number of other recommendations were made aimed at ensuring we have an open and accountable culture in agencies under the administration of the Public Sector Standards Commissioner.

The Commission on Government report contains a number of recommendations that relate specifically to the FOI Act. They were attached to a letter I received inviting submissions to the FOI review. Having said that, I note that at that time I had held my seat for only a matter of months so I was probably not on the list of submissions to the FOI review. However, these recommendations indicate that the Act is not working properly. For example, recommendation 1 of the Commission on Government Report No 1 reads -

> Existing statutory secrecy provisions should be repealed and the freedom of information regime should be the governing legislation for determining when information held by the government should not be disclosed.

Recommendation 5 refers to the attachment of a public interest test to the exemption clauses. Recommendation 7 suggests section 8 of the Act should be amended so that the provisions of the Act should not be overridden or restricted without public consultation. It also refers to the cabinet secrecy provisions and so on. The COG report makes eight recommendations that specifically deal with shortcomings in the FOI Act that have not yet been addressed. There are two basic exemptions: Matter is exempt when it is considered not to be in the public interest to be disclosed and some agencies are exempt. The number of exempt agencies is relatively small, and I do not have too much concern about them, but I am intrigued about some specific agencies. It would be interesting to read *Hansard* to see why the State Government Insurance Corporation and the Perth International Centre for the Application of Solar Energy are exempt agencies. Some of the exemptions do not make sense.

I have grave concerns over two of the more important exemptions; the first being exemption 4 which is commercial or business information and the second is exemption 10 which is the State's financial or property affairs. Those exemptions are most likely to be abused in limiting access to information. It comes back to the whole question of commercial-in-confidence and contracts and information to which the people of this State should have access in determining whether contracts entered into by the Government are appropriate and protect the interests of the Western Australian taxpayers.

As I said last week in this place and as I have said in many debates, in some circumstances trade secrets cannot be disclosed nor can tendering processes be compromised by disclosure of information. However, the problem with these confidentiality clauses is that often they are used to bar access, preventing people from knowing whether an issue is a trade secret that requires protection. It could be that what the government agency bars access to, saying that it is a trade secret, is something that is common knowledge throughout that particular industry, and yet, as a consequence, the contract may not be disclosed and the information not made available to the public. I do not believe that is in the interests of open government in this State.

The last thing I raise is a provision which I found in the South Australian FOI legislation and which might assist Hon Ljiljanna Ravlich in her efforts on behalf of her constituents. The South Australian legislation has a provision stating that members of Parliament are not to be charged for FOI applications. Section 53(2)(b) states that the regulations -

> … must provide for access to documents by Members of Parliament without charge unless the work generated by the application exceeds a threshold stated in the regulations . . .

That threshold is currently $350. That would not assist the member if she has a request for which she is to be charged $30 000 - although I believe she told us that the final charge was considerably less than that. If contracts are not to be made available in this Chamber, and they are not made available for members of Parliament to examine as part of our duties and on behalf of our constituents, we must have some other method other than FOI of making sure that we can have access to the information. The South Australian provision goes some way towards providing access to members of Parliament who need information in order to fulfil their duties.

HON J.A. SCOTT (South Metropolitan) [4.11 pm]: I firmly believe that openness and accountability have long disappeared from the Court Government's agenda and that, with it, the spirit of openness and accountability does not exist any more. That is a terrible shame because members of Parliament, in particular, depend very much on getting information so that they can protect the interests of the community on many issues. It is my experience that quite often the reason why documents are not forthcoming when, for instance, we ask for them to be tabled in this place, is simply that they are damaging to some minister's argument. We have seen numerous examples of that.

When people go to the Office of the Information Commissioner to access information, they may find that the departments involved - under pressure from their ministers no doubt - do not want to hand over information. A recent example of that was the FOI application made in regard to the Kwinana speedway motorplex project, where the Government made certain reports disappear because they were not favourable to the outcomes it wanted. The real problem with that issue was that it involved a life or death situation. The reports pointed out that the project would be dangerous to human life; namely, to the patrons of the complex. I think it is outrageous that a minister should hide this sort of information. Another good example of the sort of secrecy that exists within government was the witch-hunt carried out within the Department

of Transport for the person who had released information. Once again, it was information that would impact on people to the extent that it could, by the information being known, show that the Government was not properly considering the safety of people using the roads. Rather than the Government dealing with the issue, the information was hidden.

This attitude makes the application of the Freedom of Information Act rather difficult. It is the spirit in which ministers and their departments are working with the Act that makes it not work. We have the basics of what we need in a FOI Act, but, as with native title, for instance, it needs two to tango. The reality is that there are too many times where financial barriers are put in place. At times I have paid out large sums, quite outrageous sums, for FOI information from government departments. On other occasions I have had to go directly to the Information Commissioner. I commend Bronwyn Keighley-Gerardy because I think she does a very good and fair job. I have been very impressed with the way in which she has approached her job. She does not do favours for anyone. The fact that the system is not working is not due to her, but to the increasing secrecy in which we see government move.

Hon Peter Foss has pointed out some statistics showing that there has been a decrease in the time taken to provide information and an increase in the efficiency of the system. Part of that comes about because so much information has now been put out of reach of the FOI system, such as that of the Water Corporation, because of the corporate nature of the agency or because of the increasing amount of outsourcing in the public sector in which the Government pleads commercial-in-confidence. Commercial-in-confidence is a wonderful little excuse that Governments use in order to not be accountable for the way in which they spend public money. They argue that somehow, if we have an open system of tendering and openness in the government contracts, they will no longer be able to do business with anybody.

I have spoken to Ted Mack, who is renowned for having set up a very open system in his local government area of North Sydney some years back. When he put in place that completely open tendering system, he was told what the Government is saying here: No-one will do business if they have to reveal information; there must be commercial-in-confidence otherwise no-one will tender for projects. That did not prove to be true at all. There was absolutely no change in who tendered. The only change was that the community received some level of accountability. We see Acts of Parliament and state agreement Acts go through this place in which commercial arrangements are hidden well away from the Parliament. We get scant information until after all the documentation is signed. There is no opportunity for us to do our job and this is exacerbated by the unwillingness of ministers to be honest by giving the full information that is asked for in questions in this place and their refusal to table documents - requests to table documents are totally ignored.

Hon Ljiljanna Ravlich: All the contracts are now on the Internet, according to the minister.

Hon J.A. SCOTT: I can give an example of the sort of information I have requested in recent times. I requested the Minister for Transport to table the studies that had been done on the port of Fremantle and its future use. The minister said that he had commissioned reports which showed that the silos at the port could not be retained.

Hon M.J. Criddle: Did you read the document released?

Hon J.A. SCOTT: The minister did not table that document; he ignored that part of the question. On another question relating to the Port Kennedy development, once again I must make an application under the FOI legislation. The minister involved had a report on the current state of the Port Kennedy development called the Leonhardt report, and when I asked the minister to table the report, that part of my question was completely ignored.

The ministers in this place are causing unnecessary use of FOI legislation because of their secrecy and their ability to provide obscure, rather than direct, answers when requested to provide information. It is little wonder that their departments are threatening to go to the Supreme Court rather than hand over information. That is the case with the motorplex development in Kwinana, about which the Ministry for Planning has said it will go to the Supreme Court to prevent the documents being handed over, and it has even told the commissioner a big fat story about the documents being cabinet documents when that is not the case.

HON TOM HELM (Mining and Pastoral) [4.21 pm]: It is fortuitous that we are debating this matter at a time when I am in conversation with two friends from Kalgoorlie who have been involved with the FOI legislation. They thought it was an opportunity for them to learn more about the things going on around them, but they now reckon that the freedom of information system is neither free nor informative. That has been their experience, particularly when dealing with the Department of Environmental Protection. They have made nine applications to the DEP since the beginning of December 1999. At $30 for each application, the amount required for ordinary people to seek out information on nine matters of interest to them is not to be sneezed at. People should have some confidence that an investment of that amount will provide the response they request. I am sure the

request was made within the 30 days required, and it was for the narrowing down of information required. It is useful at this time to mention that these people also have had some contact with the department of the Minister for Mines, and the Department of Minerals and Energy has been far better to deal with than the DEP on this matter. That should go on the record. I know it is a change, but a bit of praise where it is due does not go amiss.

Hon N.F. Moore: I will frame that and put it on the wall.

Hon TOM HELM: I can assure the minister I will not make a habit of it. I had a quick conversation with these people who happened to be around at the time, and I was not aware of the agencies' response and could not warn them that this debate would take place. They are 100 per cent behind this motion and hope that something can be done about it. I listened to the Attorney General and his defence of the FOI system and legislation. According to him, everything is all right and stacks of responses are being provided. It is not all right because, with all due respect to the Greens (WA), the Australian Democrats and every other politician, we are politicians and we are big enough and ugly enough to take the blows from various government departments and bureaucrats. However, it is not good enough for our constituents who believe that, through FOI applications, they are heading towards some understanding of what is happening to them so that they can respond to it, but nothing happens. Those systems which people believe are part of the democratic process are being snatched from them. It would be better if there were no ability to make applications under the FOI system or if there were some other way people could obtain information. It is totally unfair to raise people's hopes and aspirations and then shoot them down by ignoring their requests and saying that no information is available. That is the problem people have, and it creates difficulties for people trying to understand the FOI system when they do not get the information they ask for. That is the worst part of this issue.

It does not do the Attorney General, the Government or any politicians any good to try to kid people into believing it is a way of resolving their issues and problems. The Attorney General mentioned that resolution of the problem with Hon Ljiljanna Ravlich's matter before Crown Law was as simple as narrowing down the questions. One of my friends from Kalgoorlie advised me recently that he asked for a document 30 pages long, and was advised that it was of Ben Hur proportions. In this day of photocopying machines, facsimile machines and other wondrous electronic devices, if a public servant cannot reproduce a 30-page document without too much hassle, what can be done? It is not good enough.

Once people have been advised to obtain information under the FOI legislation, they go through the process and they do not get it, their energies are channelled into other directions. It can be quite frustrating. A friend of mine from Kalgoorlie, who is not here today, is a mature young person who has a problem understanding how the Government can pretend to allow ordinary people access to information, but when they seek that information it is not available. People wait and wait, go through the emotional exercise and find there is nothing for them at the end of the day. It is only fair to repeat the comments received from my friends in Kalgoorlie.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.28 pm]: I do not have much time to respond -

Hon Tom Stephens: You can talk for as long as you like.

Hon N.F. MOORE: No, I cannot.

Hon Tom Stephens: Yes, you can.

Hon N.F. MOORE: If the Leader of the Opposition reads the standing orders, he will know that there is a limit to this debate. Even if we went beyond 4.30 pm, I would not have unlimited time. With these debates, the House should give the minister responding at least the same time as the person who made the allegations. That would make it a reasonably fair debate.

I listened to Hon Ljiljanna Ravlich's whingeing and whining as usual, and I listened to the Attorney General's response explaining a little of the history of this place. I have been a member of this House for longer than most other members, and I have been through debates in this House during the term of the Labor Government. I have been through the most secretive, miserable, and useless government in the history of this State - the Burke-Dowding-Lawrence Government - which sent this place almost broke and promised FOI legislation for 10 years. The Labor Government delivered it to the people in Western Australia in its last year in office when it knew it had a million to one chance of being re-elected. It provided FOI legislation on the basis that it would never apply to the Labor Government at that time in history. We all know that, and members opposite know that. The then Labor Government deferred all consideration of FOI legislation because it knew darn well that if people could get the information to which they were entitled, which emerged during the royal commission, the Labor Government would have been dead a long time before it was. Certainly Peter Dowding would never have been the Premier and nor would Carmen Lawrence.

Several members interjected.

Hon N.F. MOORE: I seek leave to table a document relating to the comments made by the Attorney General on Hon Ljiljanna Ravlich's contact with the Crown Solicitor's office on this matter.

Leave granted. [See paper No 838.]

Motion lapsed, pursuant to standing orders.