

**LEGISLATIVE COUNCIL**  
**Thursday, 18 November 1993**

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

**PERSONAL EXPLANATION - STEPHENS, HON TOM, COMMENTS  
 REFLECTING ON THE CHAIR, APOLOGY**

**HON TOM STEPHENS** (Mining and Pastoral) [2.31 pm]: I rise to make a brief personal explanation and an apology to you, Sir. I thank the Leader of the House for the opportunity to rise first. I make that apology through you to the House. This morning's edition of *The West Australian* carries an article on page 13 which contains quotes from me which I accept are a reflection on the Chair. I wish to withdraw those words unreservedly and to apologise. I advise the House of the circumstances which led to those words being used. I left the House angry with the Chair because I thought I would get into less trouble if I left the Chamber. Sadly, Sir, that was not to be the case. I was soon afterwards interviewed by a journalist from *The West Australian* and I used words which reflected my anger. Those words clearly reflect on the Chair and therefore should not have been uttered. I apologise for uttering them.

Later in the evening when my temper cooled and after I had the pleasure of the soothing company of my wife and children for a family dinner in the House, I came to realise that the words I had uttered in the interview with the journalist from *The West Australian* were a reflection on the Chair. I made a determined effort to try to have these words withdrawn from the story, but it would now appear I was unsuccessful. I admitted to the House during the adjournment debate I was not sure what would be published in *The West Australian* today. I regret to find the offending words have been published. I accept responsibility and unreservedly apologise. I withdraw the reflection. I would appreciate it if *The West Australian* would see fit to report this apology and withdrawal of those comments.

**MOTION - STEPHENS, HON TOM, GUILTY OF CONTEMPT OF THE  
 HOUSE**

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [2.34 pm]: I rise on a matter of privilege. I move -

That Hon Tom Stephens be adjudged guilty of a contempt of this House by reason of his statement reported in *The West Australian* of Thursday, 18 November 1993 accusing the President of the Legislative Council of being partial in the exercise of the duties of his office.

I submit to the House that a serious contempt has occurred because of the statements reported in *The West Australian* of today's date. I table for the benefit of the House a copy of the statement from this morning's paper.

[See paper No 832.]

**Hon GEORGE CASH:** I also have other copies that can be distributed around the Chamber.

*Point of Order*

**Hon N.D. GRIFFITHS:** Standing Order No 106 says that any member complaining to the Council of a statement in a newspaper as a breach of privilege shall produce a copy of the newspaper. The document the Leader of the House just handed up was not a copy of the newspaper, but a copy of an extract from the paper.

**The PRESIDENT:** Order! The way in which that standing order has been used in the past has been that a photocopy of the particular article has been acceptable. More to the point, the honourable member is not complaining about the newspaper article; he is

complaining about an alleged breach of privilege by Hon Tom Stephens. It is under that provision that the honourable member is speaking at the moment.

*Debate Resumed*

Hon GEORGE CASH: There has been a serious contempt of the House, given the statements of Hon Tom Stephens, some of which were reported in *The West Australian* of today's date. It is important that the House recognise the background to this contempt. The seriousness of the contempt can be judged only by understanding the actions of Hon Tom Stephens in this House over the past six to eight weeks. It is necessary for anyone who wants to comment upon or indeed understand the complexity of the picture to read all of the comments of Hon Tom Stephens in this House, be they by way of parliamentary debate, points of order, interjections or other comments in order to fully understand the depth and the lack of respect that Hon Tom Stephens has for the Chair in this Legislative Council.

Hon Mark Nevill: Rubbish! At least he tells the truth.

Hon GEORGE CASH: I put it to you, Mr President, that a careful reading of Hon Tom Stephens' utterances in this House will demonstrate and confirm that a serious contempt has occurred. I do not, for instance, intend to go through *Hansard* and point out the specific words that constitute the contempt, because in my view there is a need to read all of the statements made by Hon Tom Stephens over a period of six to eight weeks.

Hon Mark Nevill: The numbers allow you to be an absolute hypocrite.

Hon GEORGE CASH: Hon Mark Nevill can say what he likes about members in this House.

Hon Mark Nevill: I am talking about you, not other members.

Hon GEORGE CASH: I am entitled to stand and move this motion because of the contempt that has been committed. For the record, members should recognise that due to parliamentary business outside the House in the past few days -

Hon Mark Nevill: In the North Metropolitan Region.

Hon GEORGE CASH: - Hon Mark Nevill has been unable to participate in the debates. He may not be aware of some of the comments that have been made in this House.

Hon Mark Nevill: I have been here in the past six to eight weeks that you have been referring to.

Hon GEORGE CASH: Hon Mark Nevill would do well to read *Hansard* and judge for himself what the contempt I refer to is all about.

One of the fundamental principles of the Westminster system is that a House of Parliament should be able to have absolute confidence in the impartiality of the person who sits in the Chair - in this case, you, Sir, as President of this Legislative Council.

Hon Tom Helm: And that includes the House of Review.

Hon GEORGE CASH: As this place is.

Hon John Halden: It has not been a House of Review since yesterday.

Hon Mark Nevill: You should be moving a motion to abolish this place.

The PRESIDENT: Order! Honourable members will come to order. All members will be given the opportunity to speak on this issue.

Hon GEORGE CASH: This House needs to have confidence in the impartiality of its President. It is without question an indispensable condition for the proper running of this Parliament. Mr President, it is important for the record to note that this House has expressed its confidence in you on a number of occasions. You were elected President in 1977 and re-elected to that high office in 1983, 1989 and 1993. Mr President, that means that you have held that position for about sixteen and a half years. Each time you have been elected the President of this Legislative Council members of the House have pledged their support to you and recognised your impartiality. During the sixteen and a

half years that you have been President of this House it has been only on rare occasions that your rulings have been challenged. Again, that is an expression of the confidence that this House has in you as its President. More than that, your election some years ago as the Chairman of the Executive Committee of the Commonwealth Parliamentary Association, an association made up of members of Parliament from around the world, also expressed their confidence in you as a person who could chair the committee meetings of that association in an impartial way.

Mr President, the level of tolerance you have extended to Hon Tom Stephens is greater than most people would ever believe is possible. You have given Hon Tom Stephens chance after chance when he has acted in an unparliamentary way after being asked to withdraw his remarks. It has happened on numerous occasions. It should also be placed on the record that Hon Tom Stephens is the only member who has been suspended from this House in your sixteen and a half years as President.

Hon John Halden: By the President - other people have been suspended.

Hon GEORGE CASH: By the House, while the President was in the Chair. Again, that would indicate the level of control that you, Mr President, exercise over this House and the confidence that members have in you.

This disgraceful state of affairs has arisen because of the actions of Hon Tom Stephens.

Hon Mark Nevill: Look at your behaviour over the years when you have had the numbers.

Hon GEORGE CASH: To compound the seriousness of this contempt, Hon Tom Stephens apologised in this House yesterday for a breach of the standing orders. Mr President, the apology was accepted by you and the House did not proceed to move a motion to suspend the member. You accepted the apology and you are entitled to do that. What a sham and how shallow that apology turned out to be. Hon Tom Stephens admitted in his statement to the House a few minutes ago that after apologising to you he left the Chamber and made a comment about your partiality to a member of the media. As a result of the member's comments certain comments have been published in this morning's *The West Australian*. The article to which I refer is headed "Gag threat move as Bills mount up" and it reads in part -

Outside the House, Labor MLC Tom Stephens - who was nearly thrown out of the House by President Clive Griffiths after the motion was passed - accused Mr Griffiths of being partial.

He said Mr Griffiths went around the world promoting the Westminster system of parliamentary democracy but presided over a House which had allowed a guillotine motion to get through.

Mr President, the point I am making is that Hon Tom Stephens proffered an apology to both yourself and the House and then went outside and accused you, as the President, of not being impartial. Worse than that, he later came into this House and, during the adjournment debate, apologised again. How many times does he have to apologise for a particular action? Most people would say that, if he meant it, only once. Others would say that if he continually came into this place and apologised for a particular action there would be a question about the real meaning, feeling or position in respect of that apology.

The first apology offered by Hon Tom Stephens was nothing but a sham and it was shallow. The second apology clearly did not prevent the media from publishing his statement. It may well have been the case, given Hon Tom Stephens' comments to the House and his apologies, that had his comments not been published in a widely circulated newspaper the knowledge of that contempt may have been confined to members of this House or those people who read *Hansard*. By going to *The West Australian* newspaper that contempt and, in my view, the slander of your reputation is now the subject of comment around the State. As *The West Australian* is sold in other parts of Australia some people around the country may have been led to believe that you, Sir, as the President, do not conduct the management of this House in an impartial way. That claim is not only wrong, but also disgraceful.

Hon John Halden: No more disgraceful than the conduct of some of your members.

Hon GEORGE CASH: Mr President, it would have harmed your reputation as the Chairman of the Executive Committee of the Commonwealth Parliamentary Association; more than that, it would have harmed your reputation as a Presiding Officer in Westminster-style Parliaments not only in Australia, but around the world.

Only a few minutes before the House sat Hon Tom Stephens approached me and advised that he wanted to speak on a matter of privilege and he handed me a copy of the statement which he has already read to the House. In that statement Hon Tom Stephens admits the contempt that he has caused; more than that, he admits the anger that he felt when he left the House earlier last night.

Hon John Halden: What a crime!

Hon Mark Nevill: Don't forget to mention that he made an apology.

Hon GEORGE CASH: Hon Tom Stephens went to a journalist and said -  
Several members interjected.

The PRESIDENT: Order!

Hon GEORGE CASH: Part of the apology states -

I was soon afterwards interviewed by a journalist from *The West Australian* and I used words which reflected my anger.

As I say, this is a very serious matter. It has wide ramifications. I believe a contempt of this Legislative Council has occurred. As the standing orders require, I have brought this privilege motion before the House at the earlier possible opportunity. It is now up to the House to decide whether it believes a contempt has occurred; although I remind the House that Hon Tom Stephens, from his own mouth, admitted during the adjournment debate last night that he had caused himself to be in contempt of the House.

Hon Mark Nevill: At least he is honest.

Hon John Halden: What about Hon Eric Charlton and the seven answers that he provided? It is one rule for us, and one for you.

Hon GEORGE CASH: After that, the Council will be able to determine a penalty that it believes to be appropriate, given the seriousness of the contempt. I ask members to support the motion.

HON PETER FOSS (East Metropolitan - Minister for Health) [2.52 pm]: I second the motion. I wish to rehearse some of the things that happened. I would particularly like Hon Mark Nevill to hear my words because *Hansard* never really gives the full flavour of what occurs.

Hon Tom Helm: Do you agree with the motion?

Hon PETER FOSS: Yes; I have seconded it and I am supporting it.

Hon T.G. Butler: Do you agree with the procedure which is carried out to reach a decision?

The PRESIDENT: Order!

Hon PETER FOSS: Over the years that I have been in the House and during the past few weeks, I have been surprised how we have managed to have a reputation in this House of orderliness, which we do have.

Hon Tom Helm: And no guillotines.

Hon N.F. Moore: You forced that to be changed.

Hon John Halden: I will talk about the hypocrisy on that front later.

The PRESIDENT: Order! This is a very serious motion. I appeal to members not to allow this situation to get any worse and to refrain from interjecting across the Chamber.

Hon PETER FOSS: As I say, Mr President, I am surprised at that orderliness, given the

degree of tolerance that you allow us in this Chamber. It is quite clear that you do allow us a lot of tolerance - that applies to both sides; nonetheless, the decorum of the Chamber is maintained. With the degree of tolerance that you allow, one would think that there would also be a commensurate amount of disorderliness; but it has not worked out that way.

Mr President, because you do allow that tolerance, when a person does not play the game it is often the case that the person who takes advantage of that tolerance goes a lot further than could reasonably be expected in the House. I believe you were showing tolerance on Tuesday of this week when Hon Tom Stephens took a number of objections, which I believe were of a technical nature, plainly intending to be obstructive, which is a view that you would come to only reluctantly. Because of the tolerance that you give in this House, you tend to presume that people do those sorts of things for a proper, rather than improper, purpose.

It became quite clear when Hon Tom Stephens moved a motion of dissent - quite plainly not a genuine motion of dissent but intended purely for him to make a point - that he really went beyond the pale. At that stage, Mr President, you ought to have been congratulated enormously for your tolerance. The rest of us at that stage had thoroughly had enough of the behaviour of Hon Tom Stephens. But, in the way that we do, we trusted in your capacity to decide when it was time to call enough is enough. The following day Hon Tom Stephens -

#### *Point of Order*

Hon TOM HELM: Mr President, as I understand it, the motion is to do with an article that was printed in today's *The West Australian*. The Minister is giving us some historical events which may, or may not, reflect what went on, when the motion specifically deals with the article in the newspaper.

The PRESIDENT: Order! There is no point of order; however, I do suggest that members confine their remarks to the matter that brought about this motion. I say that because when the Leader of the House moved the motion he traversed quite a lot of territory and for me now to call upon Hon Peter Foss not to do that would probably be seen as my not being impartial.

#### *Debate Resumed*

Hon PETER FOSS: It is important to see how the statement came about. That statement must be seen in its context. The next thing that occurred was that you, Mr President, called upon Hon Tom Stephens to withdraw a statement that he made. His first action was to deny that he said it and then, while you were naming him, he said that he apologised. You then gave him the opportunity under Standing Order No 118 to make an apology or to withdraw. Hon Tom Stephens took it upon himself to make some statements which were, in themselves, highly offensive. In fact, I took a point of order when he said that your naming him -

... does not come as a surprise to me because last night I moved a dissent from the President's ruling.

In his explanation, Hon Tom Stephens accused you of partiality, which I thought was an extraordinary way of apologising. It was not until Hon John Halden said -

Mr President, I am sorry to take a point of order, but I need some clarification. Do I understand correctly that the member is required to apologise? If he does so what happens to the motion moved by the Leader of the Government? Do we still divide?

In response, Mr President, you said -

The motion will only proceed if I do not accept the apology.

Hon Tom Stephens then said -

I apologise unreservedly.

You then said -

I accept the apology.

The matter might have been left there. However, Hon Tom Stephens took it upon himself to leave the House and -

An Opposition member: That was to avoid further trouble.

Hon PETER FOSS: Exactly. That is exactly the point. He has said it again.

Hon Tom Helm: Were you the class sneak, Peter?

Hon John Halden: He was the one pulling the wings off the butterflies.

Hon PETER FOSS: That was not because he meant it or because he felt it appropriate that he withdraw, but because he felt that he would get himself into less trouble. He did not mean his apology at all.

Hon John Halden: That is the longest bow imaginable.

Hon PETER FOSS: Let me continue. Hon Tom Stephens went straight out the door and said exactly the same thing to the reporter. What better evidence do we need of the fact that a person does not mean the apology given? But, more importantly, today when apologising - during the whole of his apology - he did not say it was not true. He did not say those words which reflected on the President were entirely incorrect. It was not until the end of his speech that he withdrew; he used his formula again. Members should read carefully his statement to the House today. He does not say to you, Mr President, that he was wrong. He said that he realised the comments reflected on the Chair -

Hon John Halden: What is an apology?

Hon PETER FOSS: He realised that he would get into trouble. He did not say, "I apologise"; he said that he realised it was a reflection on the Chair. The only thing he said at the end was, "I withdraw." If one listened to the tenor of the speech one realised that it was not an apology. It was merely a statement, "I am in trouble; I want to get out of trouble", in the same way as his apology yesterday was a sham. It was not an apology because he went straight out of the House and to the Press and repeated what he said during the course of his supposed earlier apology - to which I took objection - and he said it again. He came before the House last night and today only to get out of hot water. It is appropriate when judging the actions of this member to note his behaviour now. It is plain that what he did was contempt. Plainly, his approach today is a continuation of that contempt. His attitude today is in no way withdrawing from the statement that what he said was wrong; not because it will get him into trouble; it was incorrect. Mr President, you have extended to the member the most extraordinary leniency. The fact that at long last he tests not only our patience regularly but yours -

Hon John Halden: "I will apologise from the heart!" What a shame that we should do that!

Hon N.D. Griffiths: Was this a rehearsal in the party room?

Hon PETER FOSS: What is the member going on about?

Hon Tom Helm: Do you have a clean handkerchief?

The PRESIDENT: Order!

Hon PETER FOSS: What he has done today is an aggravation because he has not made any attempt to say to you, Mr President, "I recognise that you are impartial" or that you have extended the most extraordinary leniency and tolerance to him. In the circumstances it is amazing that he was not named earlier; but, Sir, his only reaction to the leniency is to cast it in your face and to make the same statements outside the House that he was guilty of making in this Chamber. The fact that today he has come before this House and has not made any real attempt to apologise, other than to use the words, "I apologise and withdraw" -

Hon John Halden: We could lie him down on the floor or the carpet! What are you talking about?

Hon PETER FOSS: What he has done is purely a formality.

Hon John Halden: How do you know? You are presumptuous!

Hon PETER FOSS: We heard his words. His words reiterated what he said. He does not mean anything of what he said.

Hon John Halden: How can you judge that? You are so provocative!

Hon PETER FOSS: If the member reads Hon Tom Stephens' statement without the last words - "I apologise and withdraw" - he will not regard it as an apology, he will see that it is a reiteration. The statement should be read carefully. I ask Hon Tom Stephens to have a careful look and examine whether he is apologising.

**HON TOM STEPHENS** (Mining and Pastoral) [3.06 pm]: Mr President, I rise in support of the motion to find me guilty of contempt because, Sir, clearly by the forms of this House I am guilty of contempt. However, I did not set out to commit that contempt of the House, but by virtue of the fact that I have reflected on the Chair and you, Sir, I have committed that contempt. I agree with the words of the motion before us: that I should or could be found guilty of contempt by the House. I do not ask my colleagues to vote against that motion, because that which I have done is a contempt.

However, Hon Peter Foss fails to understand that there are a couple of differences here. I apologised and withdrew my comments both last night and this afternoon because I know that I am not allowed to utter a reflection on the Chair. As I said last night and say again now, I am allowed to think it or feel it or anything else but I cannot say it. I must withdraw the reflection. I cannot use words that reflect on the Chair. I have apologised for the reflection, Sir. We are not required by the "thought police" on the other side of the House to have thoughts other than those we have; I am not required to come into the Chamber and lie about my thoughts.

Hon Peter Foss: Or reiterate what you said.

Hon TOM STEPHENS: Or reiterate. I deny that I have reiterated my remarks. All I am saying through you, Sir, to the House is that I have to the best of my ability recognised the reflection on the Chair and, in the face of that reflection, withdrawn that reflection and apologised to you and through you, to the House.

Mr President, the precedents for these sorts of situations are not unusual. A whole range of situations could develop at any time where the Chair can be reflected upon, and the House at times takes action or does not take action in that regard. I recall that in 1982 a similar reflection was made on a Presiding Officer by a lower House member of this Parliament. As soon as the reflection was reported in the Press the Presiding Officer, Speaker Ian Thompson, rose in his Chair and expressed his considerable regret about a circumstance similar to this today. In so doing he referred to a couple of similar events. He referred to another incident that I recall - not that I was a member of Parliament, but I remember it from my involvement in politics in 1978. It was the case of Jack Skidmore, a member of the Assembly, who was also angered by the Chair, and thought that he had been dealt with partially. He said as much, and was suspended. He then went outside the House and reported that he had copped the wrath of the House and repeated the reflection. Interestingly, an event that preceded that involved the member for Darling Range who had to be dealt with by Speaker Norton. In my time, too, I think there have been other reflections on the Chair in this House that I found particularly offensive. I refer to a reflection on the Chair in this place by Hon Phil Lockyer regarding the activities of the Standing Committee on Government Agencies. He went to the media and reflected grossly on the Presiding Officer of this House by referring to the travel arrangements of that standing committee. Hon George Cash, in neither this place nor any other place, took any action against that member because that member -

Hon George Cash: Yes I did.

Hon TOM STEPHENS: Not against that member.

Hon George Cash: I apologise.

Hon TOM STEPHENS: That is the nub of the issue. There have been other reflections by Hon Phil Lockyer upon this Presiding Officer. Take, for instance, the television interview conducted at the south entrance because of internal Liberal Party wrangling over the leadership between MacKinnon and Court. That honourable member said that this House should get rid of the President. That is a gross reflection on the role of the President. In his role as President, he should not be dragged into the internal wrangling of the Liberal Party. If Hon George Cash had any sense of decency, he would have moved many times before now to have that member cited for contempt of the House and reflecting on the Presiding Officer.

As well as that, it is interesting to note that, despite the fact that this contempt was committed by me, another party was involved in that contempt - *The West Australian*. I regret the situation in which I put that newspaper of reporting my contempt. Nonetheless, it is interesting that Hon George Cash has not criticised *The West Australian*.

Hon George Cash: Just a moment. Give me time.

Hon TOM STEPHENS: He says, "Just a moment. Give me time."

Hon George Cash: Are you referring to today's publication?

Hon TOM STEPHENS: Yes.

Hon George Cash: When we settle these matters, I am going to move another motion which involves a matter of privilege.

Hon TOM STEPHENS: I am sorry that Hon George Cash is going to do that. I did not want to encourage him to do that, but at least I have to withdraw my argument that says he is not being consistent. I was going to say that Hon George Cash is setting out on this process not because he is genuinely concerned about what happened yesterday or last night, or what was in the Press today, but rather because over the last few weeks the accumulation of a number of incidents has caused the temperature in this place to rise. Because you know me well, Mr President, you have had a number of occasions on which to make me sit back, take stock and recognise that the temperature was rising and that it could lead to unforeseen consequences, of which this is one. The temperature has risen. Situations move along and people get themselves into circumstances such as those with which I am faced today. That is a direct consequence of the frustration that is caused to members like me to see the arrival of this new process in this House of the gag and the guillotine.

Hon Derrick Tomlinson: And the filibuster.

Hon TOM STEPHENS: The filibuster has been here for many a year. When the member was on this side of the House, he participated in that process. What is new is that we now have the gag and the guillotine, which were processes that I thought members would avoid. One has to understand what this Parliament is about. Those words have been said to me by Hon Bob Thomas and also you, Mr President. What is more, I have used them in the wider community. This Parliament is like a clearing house for the tensions, the pent-up anxieties and frustrations in the community. Hon Bob Hetherington has described it as a theatre where diverging viewpoints clash. It becomes a clearing house in the parliamentary process for that tension and the resolution of that conflict. We engage in verbal jousting when passing legislation and motions to avoid what we see in other countries. We throw words, epithets and insults to avoid having people throw Molotov cocktails, bombs and grenades, to avoid the use of tanks and activities such as occur in Northern Ireland and Somalia. Those situations arise in places where people do not rely on this sort of theatre to resolve their conflicts.

Hon Derrick Tomlinson: What a ridiculous statement!

Hon TOM STEPHENS: It is true. I am sad that the member does not understand it. It is the only thing left that I can hang my hat on in regard to participating in this process. This is supposed to be the clearing house for resolution of conflict in the community. Unfortunately, more and more this House is not doing that because of the gag and the guillotine.



Hon P.R. Lightfoot: And the filibustering on your side.

Hon TOM STEPHENS: Earlier, I said to Hon Norman Moore that I am becoming increasingly pessimistic about the parliamentary system that we now have in this place. The cause of that is the arrival of the gag and guillotine process; and the arrival of five Government Ministers in the House which gives the House a diminished role in the process of review.

Hon N.F. Moore: It was four when you were here, so what are you going on about?

Hon TOM STEPHENS: There were only going to be three if we had got through the last election. We did not get a chance to do that. I had ten and a half weeks, and I want to have another crack at it in three years' time.

This House is becoming less of a House of Review because of the processes that we are unleashing in it. No longer do we have the great independent members who were here.

Several members interjected.

The PRESIDENT: Order! Again, I appeal to honourable members to cease their interjections and allow this unfortunate debate to proceed. We will proceed more quickly if honourable members cease to carry on in that undignified manner.

Hon TOM STEPHENS: When I arrived in this Chamber 12 years ago, it had only nine Labor members. Despite the fact that there were only nine Labor members of this House of Review in the Opposition, they were able to get members from the other side of the House to vote with them to review legislation.

Hon N.F. Moore: Do you know why? It has changed. You used to put up decent arguments. You are full of rhetoric.

Hon TOM STEPHENS: No. We did not have five Ministers and a strict party regime that has developed in the Liberal Party while in Government. This is true. The Council had members such as Mick Gayfer, Sandy Lewis and Tom McNeil who would take an independent role. A variety of members of this House used to take an independent stance on legislation.

Hon N.F. Moore: But none on your side.

Hon TOM STEPHENS: No, I am not saying that. We have now come to a two party system. The place has been changed and it can no longer be recognised for what it once was; it is completely different. I suppose that we must come to terms with it. The Parliament of Western Australia now has not one rubber stamp, but two. The Government does something and both Houses accept it.

Hon N.F. Moore: You have always said that that has been the case, anyway.

Hon TOM STEPHENS: I am having difficulty coming to terms with that.

The PRESIDENT: Order! I ask the Minister to stop interjecting.

Hon TOM STEPHENS: My frustration has built up into a reflection on the Chair.

As the longest serving member on this side of the House, I am having difficulty coming to terms with these new arrangements. We now have in place a situation in which no matter what argument is put up and no matter how cogent the argument, the Government side of the House has claimed chairmanship of all the committees. The Government will not agree to any select committees that the Opposition moves to establish. It will not even let Opposition members serve on some of the select committees on which they want to serve. Hon Phil Lockyer has made sure that his colleagues do not allow me on some of the select committees. He has ensured that I will not be able to set up the select committee on north west airports, no matter how much it is needed.

I note that in the gallery today is the Chairman of the Kimberley Development Commission and President of the Derby-West Kimberley Shire, Mr Peter McCumstie, who desperately needs to have some action in regard to -

Hon P.R. Lightfoot: What has that got to do with it?

Hon TOM STEPHENS: I will tell the member exactly. A lot of work must be done by this Chamber and I want to do some of that work. I have tried to get some of that work up and running in response to representations that have been made to me by Mr Peter McCumstie, who happens to be in the President's Gallery today with other guests. Regrettably, he may see my expulsion from this House.

Hon P.H. Lockyer: He is my guest today.

Hon TOM STEPHENS: I know he is the member's guest. However, he is one of the people who has been raising with me the sorts of issues that have led me to put things on the Notice Paper that Hon Phil Lockyer will not allow this House to deal with. I am angry and I am becoming increasingly angry. However, that anger should not have spilled over to a reflection on the Chair because that reflection on the Chair will not be tolerated by the House. In that context, I am required to apologise and I volunteered that apology as soon as I realised it should be given.

Hon P.R. Lightfoot: After you went to the Press.

Hon TOM STEPHENS: I admit that. The privileges of this House exist not because you, Sir, have a great ego that needs protection. They have not been put in place to protect you in your role as President of this House, and they have not been put in place to make you feel good or so that members cannot attack you or assault you. The privileges of this House that I have breached have been put in place to protect members like me to ensure that I have an opportunity of doing the things that I have said I want to do, which is to stay in this place and argue the case for my constituents and many others and to subject to scrutiny the legislation that is coming through the House, unfortunately at a great rate of knots.

Hon N.F. Moore: What a joke you are.

Hon TOM STEPHENS: Fifteen Bills have been rammed through this House, Mr Moore, since the Government has been in office and if it is suddenly shoving onto the Notice Paper in the other place more and more Bills late in the day, we should not be blamed for that. Fifteen Bills have gone through the House and there are many more important Bills on the Notice Paper that I want to have the opportunity of debating. I am the member on the Opposition benches who will have responsibility for handling the native title legislation. I understand that that will be in this House very soon. I also want to have the opportunity of adjourning that debate after the second reading speech has been delivered.

Hon George Cash: Who did you say was handling it?

Hon TOM STEPHENS: I am handling it.

Hon George Cash: Who on this side?

Hon TOM STEPHENS: I do not know. I understand Hon Norman Moore may handle it.

The PRESIDENT: Order! It does not matter.

Hon TOM STEPHENS: In order that I can handle that legislation, I cannot be in breach of the privileges of this House and therefore I cannot reflect on the Chair.

Hon N.F. Moore: You are learning after 12 years.

Hon TOM STEPHENS: I am learning a lot of things. I am also learning that the House is changing, that the place is firmly locked into a death roll between the two sides, that there is no flexibility on the Government benches any longer and that tensions will rise and I will become angrier and, on occasions, I will make mistakes; and I made one yesterday for which I have apologised.

Hon N.F. Moore: You made two mistakes.

Hon TOM STEPHENS: Okay, I made two.

Hon N.F. Moore: You apologised at the wrong time.

Hon TOM STEPHENS: I could not apologise before I made the mistake, but I did as soon as I realised that I had made it.

Hon Peter Foss said that I was hypocritical because I apologised to the President earlier in the day and then went out and repeated the same offence. Mr President, you know that that was not quite the case because I had to apologise to you because of a suggestion that I said that the Chair was untruthful. If you have a look at what I said and what I meant, Mr President, I did not say that the Chair was untruthful - that was not what I meant - and when you said that I had, I had to apologise. You required me to withdraw and so I apologised. That was a totally different issue than that for which I am now apologising. Something quite different arose outside the House. I thought yesterday that I was being subjected to partial treatment and I said so and now I regret it. I know I can feel that, but I cannot say it because that is what has got me into the bother that I am in now. I do not reject this motion. I have already said that I have reflected on the Chair and I have apologised for that.

As well as the native title legislation that I want to deal with, there is also the workers' compensation legislation. That is desperately important legislation for the people of my electorate. I am aware that members opposite - Hon Phil Lockyer is probably the ringleader - would love to see me out of the House for as long as possible. He wants to see me out and I know that.

Hon P.H. Lockyer: I was not going to talk on this matter.

Hon TOM STEPHENS: Hon Phil Lockyer and I do not like each other. We never have and we never will. As a result, he will take the opportunity of voting to get me out of the House. However, he should remember that we share an electorate and in that electorate live people with divergent viewpoints. However, we share an obligation to represent them. I ask Hon Phil Lockyer and Hon Norman Moore not to deprive this Chamber of one of their representatives.

Hon P.H. Lockyer: You have spent 13 years getting stuck into me. I can't believe what I am hearing.

The PRESIDENT: Order! I cannot believe what I am hearing from the interjectors. Let me say to Hon Tom Stephens that, because of the very nature of this motion he is debating at the moment, I am extending to him a great deal of latitude. The points he is making now are points that may be more appropriately raised at some subsequent time this afternoon. In other words, the question before the Chair at the moment is one which suggests that there has been a contempt of this House. The question of a penalty may or may not arise as a result of whatever the House decides. However, that is another matter altogether. Should that come about I suggest that the things he is saying now would be more appropriately said then without his pre-empting what the House will do.

Hon TOM STEPHENS: I suppose, therefore, that I should restrict myself to saying that I hope I can encourage somebody in this House to move an amendment to this motion. I also hope that, when dealing with the penalty question for the contempt, members will recognise that I have apologised and will accept that apology as the penalty for this contempt. To do otherwise would inflate the notion of what the privileges of this House are about. The privileges of this House are not there to protect any ego attached to your position, Mr President. We speak about these issues and I know that tomorrow will be another day. After this question has been dealt with, we will come back to the Chamber and hopefully quickly return to an even keel and the place will continue dealing with its business. However, it is important that this device not be used for depriving my constituents of my voice in this place in the scrutiny of legislation.

There are times when reflections on the Chair could be construed as contempt and those contempts have been treated variously by the House. Sometimes they have been ignored as in the case of Hon Phil Lockyer's reflection, sometimes a penalty is imposed as in the case of Hon Jack Skidmore and in 1982, when the Speaker reprimanded a member and that was the end of the matter. In 1975 a different treatment was handed down. I have apologised for reflecting on the Chair and I am eating humble pie, despite what Hon Peter Foss said. I will never repeat this experience. I do not want to ever be in this situation again.

As Hon Peter Foss pointed out, I have used every device available to me under standing orders and some which I imagined were in standing orders to try to ensure that I fulfilled my obligations as a member of Parliament. That might have been frustrating to Hon Peter Foss, but I saw in this place legislation being dealt with that I objected to strenuously and wanted to see subjected to closer scrutiny. There is more on the way. As a result of that I have used devices which have been unsuccessful and which caused the temperature to rise. I was working under the misapprehension that there could not be a guillotine put in place without there actually being a guillotine in place. I set about trying to prove that by using every available device in standing orders and others I imagined were in standing orders. Hon Alannah MacTiernan asked me afterwards, "Where did you learn hand to hand, unarmed combat?" I guess that is what it was like for a while. I did that because of the responsibility I had to ensure that the guillotine did not come into effect. I fought it and resisted it and was angry in the process, and I used intemperate words outside the House as a result.

Hon John Halden said to the Government, in his capacity as Deputy Leader of the Opposition at the time the guillotine motion was before the House, that members opposite did not even start to realise the consequences that would flow from their action. There has been the opportunity for a guillotine motion to expedite their legislative program, and the first consequence of that is to get my Irish up and find that, instead of getting on with the business of the day, they have had to move a privilege motion against me. This has further delayed the business of this House.

Hon George Cash: Would you like us to walk away and pretend it did not happen? Be reasonable.

Hon TOM STEPHENS: I would not. That is why I wanted the House to hear my apology.

Hon George Cash: That is why I let you go first.

Hon TOM STEPHENS: I am glad the member let me go first. If he would like to send us a message as to what he would like to do about any penalty, we could probably expedite the process.

Hon George Cash: Some years ago they abolished the death penalty.

Hon TOM STEPHENS: I was here when that happened. I do not think Hon George Cash was here. I suspect this House could suspend so much of standing orders as would prevent my being hanged, drawn and quartered in response to my contempt. I would not be surprised if members opposite rose in their places and moved that so much of standing orders be suspended as would prevent my being hanged, drawn and quartered on the spot because of my contempt of the House.

The PRESIDENT: Order! Hon Phil Lockyer will come to order. I just remind Hon Tom Stephens of what I said earlier. When I said it I meant it. Talk about the motion, please.

Hon TOM STEPHENS: Mr President, I think everybody in the House and beyond understands how we got ourselves into this regrettable situation. I have apologised for it, and I hope my apology will be treated seriously. I hope that as a result of my uttering these words no journalist or newspaper will suffer any similar motion being moved by the Leader of the Government in this place. Having borne responsibility for what I have said, I hope that will be the end of it and the apology I have given will be the end of it as well.

**HON P.H. LOCKYER** (Mining and Pastoral) [3.33 pm]: I was not intending to speak on this motion for a number of reasons, not the least of which is that I have been in this place a short while too, there being only two members who have been here longer than I, but I would like to correct a couple of little things. First, I hold no personal dislike for Hon Tom Stephens. Apart from a small altercation in the corridor many years ago for which he took me to court, where I was found guilty, we have never had a cross word outside this Parliament. I have his measure in here, however, and I could turn him into a raving lunatic in about five seconds.

Hon John Halden: Unfortunately, that would be from one lunatic to another.

Hon P.H. LOCKYER: That is a matter of judgment. Watching Hon Tom Stephens this afternoon reminded me, and would have reminded others who have ever been out in the bush, of a snake with a broken back striking out wherever it possibly can. It is quite right that at one time some comments I made concerning the Standing Committee on Government Agencies were reported in *The West Australian* and perceived not only by me but by the President as a reflection on the Chair. At the first possible opportunity I had, as you will recall, Mr President, I stood in this place when Parliament resumed and apologised to you. That is the correct method of doing it and obviously Hon Tom Stephens was not here.

Hon Tom Stephens: Was that the end of the matter?

Hon P.H. LOCKYER: That was the end of the matter as far as I was concerned, and you, Mr President, accepted my apology. I had said something about the money spent on a trip and it was reported in *The West Australian* in an article which reflected on the President, but I did not mean to criticise you, Mr President. I explained that I had not been criticising the President and had not wished to have people infer that. I did not blame *The West Australian* newspaper as Hon Tom Stephens has. Quite frankly, he is his own greatest enemy. I will explain why, in the hope that this does not happen again, because in my opinion this does none of us any good. I have never seen so many people in the Press Gallery since the opening of Parliament, and one cannot really blame them because there is a really good story with Hon Tom Stephens making a fool of himself. The contempt motion today stems not just from Hon Tom Stephens' latest comments but from his 11 years of shocking behaviour. He has tried every trick in the book.

Hon Kim Chance: That is not what the motion says.

Hon P.H. LOCKYER: Don't let the member be the judge.

Hon Kim Chance: I can read.

The PRESIDENT: Order!

Hon P.H. LOCKYER: I remember Hon Tom Stephens coming into the House dressed in denim jeans because he thought wearing denim might be an acceptable thing. He has tried every trick in the book and, quite frankly, people have had enough of him. He holds this place in total contempt, Mr President, and a lot of his colleagues think the same thing. They will stick by him though, as I would stick by him if he were on my side. Quite frankly, I was considering getting up this afternoon and making some mitigating comments on his behalf because he has probably suffered enough. I do not know what the procedure will be this afternoon. As I understand it, Hon Tom Stephens can be suspended or fined or maybe - hopefully - publicly flogged. I hope to be on the end of the whip. That will do no good, but I think the only thing that can do any good is for Hon Tom Stephens to learn from his own stupidity, because what he did yesterday was absolutely stupid and did no credit to himself or his colleagues and, worse, it did no credit to this Parliament. We are debating a contempt motion against him when there is a lot of good legislation we should be talking about. It just so happens that he does not like accepting the rules. I accepted 10 years of decisions by a Government in which he was a Minister for a short while. I did not like that much either, but I did not get up and carry on as he has, and reflect on Presiding Officers and that sort of thing.

Hon John Halden: Yes you did, because you said you had to apologise.

Hon P.H. LOCKYER: I did apologise, too.

Hon John Halden: Which one is it to be? You cannot have it both ways.

Hon P.H. LOCKYER: This bloke did it intentionally.

Hon John Halden: How do you know that?

Hon P.H. LOCKYER: He apologised to the President yesterday and went straight up to a reporter and intentionally reflected on the President. He did not have dinner with his wife, on his own admission, because she has obviously given him a nice old flick across

the wrist and said, "Compose yourself." What he did about 8.30 pm, after he had consulted with his leader and four or five others, was to think that he had better find the reporter and see whether he could get this fixed up. That is not why the Press are in business. What would have happened had the incident been aired on Alan Carpenter's "The 7.30 Report"? Would he have tried to take back the words? His words were given to the print media this time and he "hoped" they would not be printed. Last night I read his words in *Hansard*; he said, "I hoped that it would be withdrawn." There is no question about that.

Hon Kim Chance interjected.

Hon P.H. LOCKYER: The member should not try to change the subject. We are talking about an Opposition member here; he should not worry about members in the other place. I suggest that the member read the standing orders. A reflection on a member in the other place is deemed to be highly out of order.

Hon John Halden: It never bothered you.

Hon P.H. LOCKYER: That is not right; I have never reflected on anyone in the other place.

Hon John Halden: We will go back through *Hansard*.

Hon P.H. LOCKYER: The member can do what he likes. I happen to respect this place.

Hon Sam Piantadosi: That is a reflection.

Hon P.H. LOCKYER: I respect it. Perhaps my friends from the other place do not accept that.

In my 14 years in this place I have never seen a member charged with contempt. It is a sad day. However, the member who has made these outrageous reflections on me today shows his deep-seated hatred for me. One of the things he said was that I had convinced my side to stop his select committee. The member can ask any of my colleagues - I have never said a word about his select committee. I have not had the opportunity to say it in the Parliament because we have not got around to debating his motion. When we do I will listen to the merits of it and vote accordingly. We have not discussed it in our party room. If Hon Tom Stephens had any decency he would apologise by way of interjection.

Hon Tom Stephens: I apologise to you if you assist me in getting that select committee up and racing.

The PRESIDENT: Order! It never ceases to amaze me how honourable members in this place have incredibly short memories. It was only five or six minutes ago that I said to Hon Tom Stephens that embarking on that course of talking about matters that had nothing whatsoever to do with this motion was out of order. It automatically follows that if anyone else does the same thing it is out of order. If Hon Phil Lockyer wants to admonish Hon Tom Stephens for falsely accusing him of something, another procedure can be adopted to do that. However, the present procedure is that we must talk about this motion; namely, whether the House believes a contempt has been committed. I ask the member to talk about that.

Hon P.H. LOCKYER: I understand that and I respect your ruling, Mr President. However, it is somewhat difficult when the member at length reflected on my ability to stop his efforts to establish a select committee.

Hon Tom Stephens' word in this House means nothing. We heard him last night apologise to you, Mr President, unreservedly. However, within minutes he was talking to a member of the Press in the hope that he would get a story that would reflect badly on this Chamber and this Government. His mouth ran off with him. It took him a while, until good sense prevailed, to cool down. If Hon Tom Stephens gets so het up, it may be a good idea that he find some other form of employment. Many of his colleagues do not like some of the things the Government is doing, but they do not carry on as he does. For example, Hon John Halden has handled some difficult Bills hitting at the very core of the party he represents. However, he has not carried on - for which I respect him - like

Hon Tom Stephens. Mr Halden is hardly what one would call an altar boy, and he hands out as well as anybody else, but he would never stoop to Hon Tom Stephens' actions, because he has in his own way a great respect for this place. He knows that at this moment he does not have the numbers in this place.

Hon John Halden: And is never likely to.

Hon P.H. LOCKYER: He would like to have them. He knows that he can negotiate - which he does - and he gets things done.

Mr Stephens does not have too many mates on this side of the House nor too much respect from this side; he lost it over the years. People are sick of him. We cannot put up with the nonsense that he carries on with. He cannot do all those dreadful things week after week and expect members on this side to sit back and cop it, and then when he needs this House to tip the scales in his favour - in this case by giving him a light tap over the hand - expect members on this side to do that. There is no hope of that. I do not know how the method works. However, I suggest that he will cop something severe this afternoon, and I think he deserves it. He rambled on a minute ago, and instead of saying at his last opportunity that he would take what he was going to cop, he could not resist hopping in on a variety of subjects until the President pulled him into gear and said that he was off the subject, as he said to me a minute ago. That will fall upon deaf ears. I know that Mr Stephens' colleagues will support him, and I admire them for that. If I sat on that side I probably would too. Mr Stephens' word means nothing in this place and I hope not only that the House carries this motion - of his own volition he pleaded guilty - but that he is given some sort of penalty which will be something that he remembers. When he returns to this place his behaviour over the next few months will be under a microscope.

*Sitting suspended from 3.46 to 4.00 pm*

**[Questions without notice taken.]**

**HON JOHN HALDEN** (South Metropolitan) [4.31 pm]: In speaking to this motion I hope to prevail on the House to show some sanity with regard to its decision and not become extreme in its views. It is clear from the comments of Hon Tom Stephens that he has acknowledged the contempt and has apologised for it. The atmosphere in this House in the last few days could best be described as that of a hothouse, as a result of those circumstances in which for the first time in history the guillotine has been used in this House, highly controversial legislation has been passed, and the House has sat continuously for five weeks, with the prospect of sitting for another six weeks. In addition, this year we have sat beyond 11.00 pm on more occasions than we have in many years previously.

Perhaps in some respects this motion and the events of the last few days clearly reflect the introspective nature of parliamentary life and, may I be so bold to say, the irrelevance of this place with regard to the real world. I say that with due deference, but I hope this matter will be dealt with in the context of the wider community, and not in the context of the introspection with which we are unfortunately faced as a result of being members of Parliament confined in this place for protracted periods.

It is true that Hon Tom Stephens has great commitment to certain issues, some of which this House should debate more regularly, and from time to time he feels great frustration at not being able to deal with certain matters. That applies not only in this House, but also in other places and in the party room. In this State young children are starving, others have medical problems, many people cannot find employment, and many are trying desperately to make ends meet. In those circumstances I hope this House will not become carried away with this motion and will accept that, although a contempt has occurred without doubt, it should be treated in the context of wider issues.

I say that also because I would hate this House, because of any excessiveness, to fall again under the public microscope and be seen as not dealing with the real issues of the world, but rather with issues of less concern to the wider community. I emphasise I do not want to devalue the processes of the House by any statements I make.

As I said earlier, we are thrown together in this place day after day and expected to debate controversial legislation. That, of course, generates considerable intensity of political feeling, and we are all individuals with differing political values. There is no doubt that Hon Tom Stephens has considerable passion about a number of issues and, quite obviously, that passion flows over into this House on occasions. It could perhaps be said that this place is somewhat like a boarding school in terms of the problems that arise. I would hate this House to be so regimented or excessive - as sometimes happens in boarding school dormitories where the practices can be excessive - that it becomes so concerned about this microcosm of the world, and does not realise that a whole range of other issues should be considered.

It was interesting to listen to the comments of others in this debate, and I hope that the Government will, before making any pre-emptive move in regard to a penalty, listen to the comments of all members. People said that for the past 12 years the member's behaviour has been shocking; that he has held this place in contempt; that he has lost the respect of members on the Government side of the House; and that they are sick of him. I now want to use some of the words you, Mr President, have often used in this place, to suit the purpose of my argument. The fact that people in this place get up one's nose from time to time should not influence any penalty the House may impose with regard to this matter. As Hon Phil Lockyer said, there is considerable intensity on that side of the House, and it is appropriate that the intensity not impact on anything else we might do. Hon Tom Stephens has every right to put in his own aggressive way from time to time - and his sometimes very eloquent way - particular elements of his argument.

Hon George Cash: And sometimes his comments are less than eloquent.

Hon JOHN HALDEN: Some of his speeches are quite superb, especially if one reads them also.

Hon George Cash: The reading is easier than the listening.

Hon JOHN HALDEN: It is appropriate for members opposite in pursuing this matter not to allow their feelings, with regard to the member's comments or his manner of putting those thoughts and expressions in the context of debate, to unduly influence them. It is clear that the member has made an error of judgment, but that error should not be exploited by the feelings of anger of members on the Government benches. The member made an honest mistake, and it has been said by some that from time to time he wears his heart on his sleeve. That, of course, leads to the odd problem on occasions. A number of people in this House cause problems for different reasons. However, we should keep all of those problems in the context of what happened and recognise that the member, as quickly as possible, came into this House to try to have his comments withdrawn. I know that he approached me, the Leader of the Opposition and the Press to have those comments withdrawn. That is obvious after noting the difference between the second and third editions of *The West Australian*.

Hon Tom Stephens: I got there too late.

Hon JOHN HALDEN: An effort was made.

Hon Tom Stephens: I am not trying to blame *The West Australian*, but I did get there too late.

Hon JOHN HALDEN: It is obvious that the member approached *The West Australian* and sought a remedy at the earliest opportunity.

Mr President, the action taken by Hon Tom Stephens is not any different from the action taken by Hon Phil Lockyer when he made a statement which impugned your role as President. I recall Hon Phil Lockyer's statement and I actually made some uncomplimentary interjections. At the first opportunity available to Hon Tom Stephens - the adjournment debate last night - he outlined what happened. Members will recall that the issue was left up in the air after the adjournment debate last night because Hon Tom Stephens said he thought that his comments might be published in *The West Australian*. At the first opportunity today he made a statement to the House.



It is not becoming of people like Hon Peter Foss to use his verbal skills to convince the House that Hon Tom Stephens had other motives. The reality is that Hon Tom Stephens, in a pique of passion, lost his temper and made statements which he now regrets. There would not be one member in this House who has not found himself in that situation. However, Hon Peter Foss ascribed motives when he had no idea of the member's motives. His contribution added very little to this debate, but it might have inflated his ego.

The action taken by Hon Tom Stephens is exactly the same action as that taken by Hon Phil Lockyer. Members need to be temperate in their discussions and their thinking. To set up precedents which are contradictory would create a series of problems which this House would have to deal with at a later stage. It has enough to deal with because of the Government's decision to introduce the guillotine and gag motions. It appears that the Government is intent on increasing the pressure in this place.

In the debate on the guillotine motion yesterday I said that the Government had not considered the unforeseen circumstances of its motion. I put to the House the situation of a member on this side of the House making a statement which would attract a reaction from members opposite and then another reaction from members on this side. If that were the case, the debates in this House would degenerate very quickly.

The House must be very careful when it considers this motion. I am not suggesting that it should not be considered in a serious way, but direct parallels can be drawn between this case and other cases. I ask members to compare the Government's reaction today with its reaction last Tuesday week when I moved a motion of privilege against the Minister for Transport. All I required from him was an apology to the House for making a series of contradictory statements. Not one member on the Government side of the House was prepared to debate that motion. Blind Freddy would know that the Minister for Transport made a series of incorrect statements, but he would not apologise to the House.

Hon George Cash: Blind Freddy is not in the House and the House considered and disposed of that motion as it saw fit.

Hon JOHN HALDEN: Exactly, and that is the very point I am trying to make. Blind Freddy is not in the House but, if he were, he would do a better job than some members opposite. It was quite clear that the motion I moved was disposed of, as the Leader of the House said, by the brutal use of numbers. The House was not prepared to allow the issue to be considered by a committee of privilege. If there are double standards in this House, there will be many more unforeseen consequences. In the case of the Minister for Transport it was probably not one of the most spectacular breaches, but it had to be drawn to the attention of the House. I put it to Government members at the time that all that was required from the Minister for Transport was an apology. The Government was not prepared to allow the Minister to make an apology. If these double standards continue, there will be grave difficulties in the management of this House and it will create a huge problem in the future.

I have given the House an example of situations similar to the one we are debating today and illustrated that only a few weeks ago the Government used its numbers to assist the Minister for Transport so that he did not have to give a satisfactory answer to the House or apologise to it.

#### *Amendment to Motion*

Hon JOHN HALDEN: I move -

To add the words -

In light of the member's apology given to this House last night and today no penalty be imposed.

HON GEORGE CASH (North Metropolitan - Leader of the House) [4.49 pm]: I oppose the amendment. When I spoke to the original motion I made it very clear that I regarded the contempt that had been committed by Hon Tom Stephens and the contempt

that subsequently has been admitted by him as a very serious matter. For members to agree to an amendment, having debated the seriousness of the contempt by the member, would relegate this place to nothing more than a circus.

Hon John Halden: That is only your view.

Hon GEORGE CASH: I say that because, using the standing orders as some sort of a guide for penalties that can be imposed by the House in respect of a person being named, we find on the first occasion when a person is named, he is subjected to being suspended from the House for the balance of that day's sitting. The penalty for a second offence is a suspension for one week and on the third or subsequent breach of the standing orders when someone is named, that person is suspended for 14 days. At the very least, one would expect that the House, if it finds Hon Tom Stephens to be in contempt, would have to consider some penalty. Mr President, as you pointed out earlier, this is not a motion about penalty at this stage; although the amendment now brings that into question. Given the admissions of Hon Tom Stephens, a penalty is necessary.

There are a number of options for a contempt of the House if we do not rely on Standing Order No 119 as the guide: One is to take no action; another is to reprimand the member; another is to censure the member; another is to fine the member; another is to suspend the member or, indeed, to expel the member. That would be a pretty serious penalty to impose on any member. The fact is that it is within the authority and province of the House to consider all of those options, and there are probably more.

But let us be realistic. If the House agrees to the original motion - that is, that it does not carry the amendment - I intend to rise and move that Hon Tom Stephens suffers a penalty for the contempt that he then would have been adjudged by this House to have committed. However, I can tell members -

Hon T.G. Butler: Been adjudged by the Government.

Hon GEORGE CASH: No; been adjudged by the House.

Hon T.G. Butler: No, by the Government. You and I can both count.

The PRESIDENT: Order!

Hon GEORGE CASH: I remind Hon Tom Butler that when Hon Tom Stephens rose, firstly, he accepted that his statements were a contempt of the House and, secondly - and I think pretty seriously because he accepted his statements were a contempt - he acknowledged that he would probably have to support the motion.

Hon Tom Stephens: Not probably; I do support the motion.

Hon GEORGE CASH: That is the very point. Let us be realistic about what is going on in this place.

Hon T.G. Butler: That is a good idea.

Hon GEORGE CASH: I have to discount the interjections from Hon Tom Butler. These discussions are too serious and they are going right over his head.

Hon T.G. Butler: No; they are not. I know how serious it is.

Hon GEORGE CASH: They are. We happen to be dealing with a very serious matter.

The PRESIDENT: Order! I ask Hon Tom Butler to stop his interjections and I ask the Leader of the House not to get into an argument with him.

I take this opportunity to direct the attention of the House to what we are now debating. We are now debating the proposition to add some words to the original motion. This is a very narrow question for people to consider. At this time I do not think the Leader of the House or any subsequent speaker should be contemplating the range of penalties that may, or may not, be applied if the original motion is carried. It seems to me that we should simply be giving some argument about whether the question of penalty should be considered at the same time as we consider whether guilt exists. In other words, the arguments I want to listen to involve why we should be discussing penalty at the same time as we are discussing the question of whether there is guilt. If members agree that

we should be discussing the penalty with the original question, they should support this amendment; if they do not, they should defeat this amendment and, maybe, some other penalty may be proposed subsequently. I do not think this amendment opens the way to debate each and every type of penalty that could be applied. I ask members to consider that.

Hon GEORGE CASH: Mr President, I certainly accept, and understand, the comments that you have made. Let me suggest one of the reasons that we should not be discussing a penalty at this stage, as much as I have just pointed out the range of penalties that might be available. If members were to agree to this amendment, we would be presuming that the original motion was carried and that Hon Tom Stephens is guilty right now. The House is entitled to make an independent judgment on that. When discussing the original motion, I did not raise the question of penalty because I did not think it was appropriate. If the House does not carry the original motion as put by me, there will not be a penalty because Hon Tom Stephens will not have been adjudged to be in contempt of the House. That is one of the reasons that this amendment, in itself, is quite foolish at this stage of the game. It is one of the reasons that I am suggesting that the House should not agree to it at all. For the benefit of the House, I want to say that if the original motion is carried - that is, if the amendment is defeated - I intend to move that a penalty be imposed.

Hon A.J.G. MacTiernan: What penalty?

Hon GEORGE CASH: I ran through the options because I wanted members to be aware of their seriousness. The penalty can be a decision of the House in due course. However, I have listened very intently to Hon Tom Stephens. Given that his almost immediate comments to the House when he rose were, at least, to acknowledge that the contempt had been committed, my interpretation of what Hon Tom Stephens seemed to be implying - I do not want to put words into his mouth or to say that I was trying to read his mind - is, "I acknowledge that I am in contempt of the House; I have done something wrong, and I am prepared to cop it sweet; I am giving an explanation now of why I do not want to be hanged, drawn and quartered." Hon Tom Stephens used those or similar words at one stage.

Hon John Halden: That is why I moved the amendment.

Hon GEORGE CASH: I believe the amendment is inappropriate at this time.

Hon A.J.G. MacTiernan: Declare your hand.

Hon GEORGE CASH: It would be very easy for me to tell members what I have in mind; but that would also be unfair. The House should make up its mind whether Hon Tom Stephens is in contempt of the House.

Hon John Halden: I thought he acknowledged that.

Hon GEORGE CASH: He has. Let the House make that decision, and we will move to the next step. I have noticed in this place that quite often members opposite want to jump six hurdles at once when talking about procedures of the House. The first hurdle that must be jumped is consideration of whether Hon Tom Stephens is in contempt. The next hurdle is consideration of a penalty. If the House decides at that stage that no penalty should be imposed, so be it. We can get on with the job. We have been here for two and a half hours and we have not started the real work of the day.

I advise the House now that if any member thinks we are finishing at six o'clock, that member is wrong! We are sitting after dinner -

Hon John Halden: I am glad to be told that now.

Hon GEORGE CASH: - so that we can get on with the work of the day. Again I make the point -

Hon John Halden: Is this your consultation?

The PRESIDENT: Order! Again, I appeal to members. The hours that the House sits have nothing to do with the amendment. I recommend that the Leader of the House talk about the amendment, and send us a note about what time the House will finish.

Hon John Halden: That would be nice.

Hon GEORGE CASH: I will not talk about the hours of the House, but by way of a slight aside I can tell Hon John Halden that I told the Leader of the Opposition at 1.30 this morning that we would be sitting past six o'clock tonight. If that information was not conveyed to the member, I cannot help that.

I oppose the amendment. It is wrong for the House to consider a penalty at this time. The House must first adjudge whether the member is in contempt of the House.

**HON N.D. GRIFFITHS** (East Metropolitan) [5.02 pm]: I support the amendment. I heard Hon Tom Stephens confess his guilt; he acknowledged freely that he is guilty of contempt and that he deserves to be adjudged in contempt. I agree with the Leader of the House that we should get on with the business of the House. The amendment moved by Hon John Halden, if accepted by the House, will enable us to dispose of the matter in a satisfactory and efficient manner.

The amendment deals with Hon Tom Stephens' apology given to the House last night and, more particularly, today. The apology should be weighed up against the offence that he committed and the seriousness of it. I view Hon Tom Stephens' conduct as being inappropriate. I accept that he is guilty of contempt. I regret that he is guilty of contempt. When I heard about it I felt a degree of distress for him, for myself and, more importantly, for the House which, in the short time I have been here, I have come to respect.

Hon George Cash: I felt distressed for the President.

Hon John Halden: We all did; so what is your problem?

The PRESIDENT: Order!

Hon N.D. GRIFFITHS: Mr President, I place on the record my respect for you and my view that the way you carry out your duties is very appropriate. In that context, I join with Hon Peter Foss and Hon George Cash in their comments earlier today. I join with Hon Tom Stephens when he made his apology in that his words amounted to precisely what I have said; that is, he has great respect for you, Mr President, and for this House and regrets very much what he has done. I think it is appropriate that the matter be left there. He has been punished enough. This debate should end and the sooner it ends, the better.

However, before I conclude, I wish to refer to a couple of relevant matters. First, in matters of privilege it is courteous for notice to be given to members. In this case, I am not aware of the motion that Hon George Cash has moved. I am not aware that any notice was given or, if notice was given, that a great degree of notice was given to Hon Tom Stephens.

Hon Tom Stephens: There was no notice.

Hon N.D. GRIFFITHS: That is regrettable, because it is the lack of courtesy that we are showing to each other that may be at the root of what has transpired. The sooner we pay more courtesy to each other, the better. I confess perhaps I am guilty of discourtesy from time to time when I interject, but I know that my colleagues opposite have a go at me when I do; that is part of the cut and thrust of the Chamber. But the question of notice and courtesy is important because when Hon Eric Charlton was the subject of a notice of motion to set up a Select Committee of Privilege last week, I raised the matter with Hon John Halden. He had no difficulty in accepting my view that Hon Eric Charlton should be given appropriate notice of the motion. I expressed that view to Hon John Halden when he mentioned that he was intending to move such a motion. I understand from him that shortly after expressing my view he caused appropriate notice to be given.

The words of Hon Tom Stephens, when he gave his apology earlier today, bear reflection. I will not refer to them again, but they were given without reservation or qualification. The Leader of the House has suggested that this is an inappropriate time to deal with an amendment such as this; that we must go through stages: First, that contempt be shown and then the question of penalty be dealt with. Here, the contempt

has been acknowledged. It is analogous to a plea of guilty. The member has pleaded guilty and we are now dealing with what is appropriate in the circumstances of the amendment moved by Hon John Halden. There are ample precedents in the House of Commons. I refer to Erskine May's *Parliamentary Practice*, twenty-first edition, page 140. The words have some relevance to the amendment, although not necessarily 100 per cent to the point. I trust the House will take these words into account. Under the heading "Complaints against Members", it reads -

Where the Member accused has made a proper apology for his offence the incriminating motion has usually been withdrawn -

Hon Tom Stephens has made a proper apology. He has apologised to the House and, in doing so, he has apologised to me, as a member, just as he has apologised to each and every other member. We are here as members representing the people of Western Australia. The reference continues -

and where the Member who made the complaint has not withdrawn his motion, it has been set aside by the previous question, or by an amendment that the House should proceed to the business appointed for that sitting. In two instances, however, the House condemned the Member's conduct as a breach of its privileges, but resolved that in consequence of the full and ample apology he had offered to the House, or that having regard to his withdrawal of the expressions complained of, it would not proceed any further in the matter.

I suggest that those words by Erskine May are very relevant to the matter under discussion, and particularly relevant to the amendment moved by Hon John Halden. I ask that the House give it proper consideration.

**HON DERRICK TOMLINSON** (East Metropolitan) [5.10 pm]: We are not considering an offence under Standing Order No 116. An offence under Standing Order No 116 was reported to this House last evening when the President named Hon Tom Stephens. After an unseemly statement by Hon Tom Stephens, he apologised and left the House. After leaving the House, he committed the offence that the House is now considering and for which he admitted his guilt. That offence is a contempt of the House. Hon Nick Griffiths referred to page 140 of Erskine May dealing with complaints against members. Complaints against members are of the kind in Standing Order No 116. Contempt of the House, however, is dealt with on page 121 of Erskine May, 21st edition. Erskine May says under the subheading "Reflections on either House" -

Indignities offered to the House by words spoken or writings published reflecting on its character or proceedings have been constantly punished by both the Lords and the Commons upon the principle that such acts tend to obstruct the House in the performance of their functions by diminishing their respect due to them.

Erskine May continues -

Reflections upon members, the particular individuals not being named or otherwise indicated, are equivalent to reflections on the House.

The Lords and the Commons have consistently dealt with a contempt of the House by expulsion of the member - not a mere suspension, not a mere withdrawal of the charge because the member has apologised, but by expulsion.

Let us turn to what the member is reported to have said at page 13 of *The West Australian* on Thursday, 18 November -

Labor MLC Tom Stephens, who was nearly thrown out of the House by President Clive Griffiths after the motion was passed, said outside the House Mr Griffiths ran the risk of being described as partial.

Hon George Cash: No. That is not the one. That is the second edition.

Hon DERRICK TOMLINSON: I apologise. I have the second edition. I thank Hon George Cash for making the first edition available to me. It states -

Outside the House, Labor MLC Tom Stephens - who was nearly thrown out of the

House by the President Clive Griffiths after the motion was passed - accused Mr Griffiths of being partial.

I am grateful to the Leader of the House for bringing this to my attention. There is a world of difference between "ran the risk of being described as partial" and "accused Mr Griffiths of being partial". If Hon Tom Stephens accused me of being partial, we could accept that; but we are talking about the President, Hon Clive Griffiths, being accused of being partial. No matter what opinion we might have of the person, when we cast aspersions on the partiality of the office of President, we are casting aspersions on the institution of the House. Casting aspersions on the institution of the House and the office of President is no mere bagatelle; it is no mere offence which can be dealt with by a mere suspension, according to the precedent of the House of Lords and the House of Commons. It strikes at the fundamental dignity of the Parliament.

Hon Kim Chance: Hon Derrick Tomlinson, you will go blind. You are getting carried away.

Hon DERRICK TOMLINSON: I call upon the member to withdraw that offensive remark.

The PRESIDENT: Order! I do not know what the honourable member said. I did not hear it.

Hon DERRICK TOMLINSON: I will overlook the remark and withdraw my request.

The PRESIDENT: Order! This is what happens when members start interjecting. Hon Derrick Tomlinson is not renowned for the softness with which he speaks. It is impossible to hear an interjection under those circumstances. I ask members not to interject. I remind Hon Derrick Tomlinson that he is talking about the amendment - the addition of these words.

Hon DERRICK TOMLINSON: I thank you for that, Mr President. I will try to soften my tone. The reflection upon the office of President is not a mere reflection upon the individual who holds that office. In reflecting upon the office of President, Hon Tom Stephens is threatening the dignity of the House itself. In opposing the amendment before us, I merely point to the gravity of the offence. The gravity of the offence is one punishable by expulsion. When an offence of that gravity has been committed, one does not merely accept the apology in the form that has been proposed, and neither in the form that was quite erroneously argued by Hon Nick Griffiths. I oppose the amendment.

HON REG DAVIES (North Metropolitan) [5.18 pm]: In opposing the amendment put forward by Hon John Halden, I will counsel members of the House to be firm in their view but to be fair at the same time. Although I acknowledge that this is a serious offence, I am a little concerned when I hear members commenting about expulsion of a member.

In my first speech to this House, I gave you an undertaking, Mr President, that I would uphold the traditions and customs of this House in whatever way I could while I was a member. I believe that I have done that in the four years that I have been here, and I will continue to do that. I do not believe in change just for change's sake - that we should change our attitude or change the manner in which we conduct the business of this House just because society around us is changing and modifying its ways, provided that those customs and traditions that we uphold do not affect or interfere with the efficiency and good management of the House. We should keep those as a reminder of our roots, of the past.

Hon Sam Piantadosi: This is the House of Review.

Hon REG DAVIES: I do not want to get into the political debate. We have had enough of that over the last few days. I was most interested in an interjection made by Hon George Cash in a debate yesterday. He said -

The point I make about 11 November being the seventy-fifth anniversary of the Armistice is that men and women of Australia went to war and died because one of the things that they wanted to stand for was freedom of speech.

That is something that is very dear to every Australian and to every member of a Parliament in a parliamentary democracy. We must always strive to allow members to have freedom of speech. It is fair to criticise Governments and it is fair to criticise the action of Governments. That is fair political comment. However, we should not go one step further and criticise the Chair of this House. I think Hon Derrick Tomlinson hit the nail on the head when he said that it is not so much you, Sir, but what you stand for; it is the position that you hold in this Chamber. Over the years, you, Mr President, have protected us from all sorts of attacks from within the House and from outside the House. It is our duty, therefore, to also protect you from those same attacks. I will continue to do that while I am a member of this House.

The honourable member has admitted contempt and therefore there has been a contempt of this House. He is guilty and he must be admonished for that. I do not think that, because he has given an apology, no penalty should be imposed. An offence has been committed and, although I counsel members to be fair, we as members must be firm because we must uphold the traditions and customs of this House of Review. I oppose the amendment.

**HON KIM CHANCE** (Agricultural) [5.22 pm]: I support the amendment. If the amendment is not carried, I will support the original motion. I support the motion principally because Hon Tom Stephens has made it quite clear from the very beginning of this debate that he is, in his own mind and in the minds of his colleagues, guilty of contempt of the House and there has never been a question, at least since this debate began, that the situation was otherwise.

During the debate, mention has been made of the circumstances in which Hon Tom Stephens committed that breach. The term "hothouse environment" was used, and the gag and guillotine being used in the industrial relations legislation were stated as being integral parts of that hothouse environment. That is most certainly true and I do not propose to go over that again. However, it is also true that elements of that hothouse environment have influenced some of the words that have been said during this debate. I do not believe they reached such an extreme form as those that were used by Hon Derrick Tomlinson. Frankly, I found what he had to say says more about the way people feel about what is said in Parliament and in many ways about the low regard in which members of Parliament are held.

We are making what is a serious issue into something it really is not. Hon Tom Stephens has acknowledged that it is a serious issue. However, to talk in the terms that Hon Derrick Tomlinson did and before him Hon George Cash is something that should not pass without note. An offence has been committed. It is necessary for us to establish in our own minds just how serious that offence is. We will need to do that ultimately to determine the penalty should this amendment not be successful. However, I really think we need to get clear in our minds how serious we believe the offence is.

The nature of the offence lies in six words in the motion. The offence is committed by these words "accused Mr Griffiths of being partial". Certainly, that is a clear breach of privilege. However, to suggest as Hon George Cash did that those six words, buried in the middle of a story on page 13 of *The West Australian* under a headline which did not even refer to the matter but which referred to the gag which contributed to the breach of privilege in the first place, are of Statewide and indeed nationwide significance is indulging in fantasy. The real world judges us by the things we do. The real world has a problem with unemployment. People have a problem making ends meet. If the real world, as represented and translated by the Press Gallery knew that we had spent all day arguing about six words, however hurtful they may be to the role of the President and however damaging we feel they might be to the role of this institution - those things are important to us certainly and may be important to them indirectly - their worst suspicions would be confirmed.

The Leader of the House made some comments which I think need repeating because if a member of the public were here and had not read the motion but had listened to what the Leader of the House said, he would wonder what was the terrible deed Hon Tom

Stephens had committed. The Leader of the House described the incident as "a serious breach of privilege". Speaking on the amendment, he called it "a very, very serious breach of privilege". A little later the offence had got much worse because he called it "a very, very, very serious breach of privilege". The Leader of the House said we should judge Hon Tom Stephens by his actions over the last six to eight weeks. The motion asks the House to judge Hon Tom Stephens guilty of a contempt of this House by reason of his statement recorded in *The West Australian* on Thursday, 18 November.

#### *Point of Order*

Hon GEORGE CASH: Earlier, Mr President, you directed that speakers speak to the amendment and not the original motion. I ask you to consider the comments of Hon Kim Chance. My view is that they far exceed the amendment before the House.

The PRESIDENT: Order! There is no point of order. However, Hon Kim Chance should direct his comments more to those words which are proposed to be added. I am allowing him some freedom because I took it that he was getting around to relating those words to the words proposed to be added by Hon John Halden's amendment. I suggest he do it reasonably quickly.

#### *Debate Resumed*

Hon KIM CHANCE: Thank you, Mr President. That is exactly what I was doing. The words contained in the amendment include the words "that no penalty be imposed". In order to discuss the value of the penalty and the application of the penalty to the offence, it is necessary to understand what the offence is. In doing that, it is also necessary to counter arguments which have been made to define the offence. Hon George Cash has described the situation as a disgraceful state of affairs and, as I said, said it would have Statewide and nationwide consequences. Those statements by the Leader of the House suggest that he was more interested in making something larger of the issue than in fact existed. In terms of the comments made by Hon Peter Foss, however, I am even more concerned. Hon Peter Foss is a member of this House who is held in very high regard particularly to the extent -

Hon Tom Helm: By himself.

The PRESIDENT: Order! Hon Peter Foss has not spoken to the amendment in regard to the addition of the words, so the member must in any reference to the speech by Hon Peter Foss refer to any comment that he might have made that would lead to having reference to the penalty imposed in the words he is discussing.

Hon KIM CHANCE: I am referring to the words used by Hon Peter Foss in respect of the apology made by Hon Tom Stephens today, and the effect to which that apology may impact on the nature of the penalty. My comments will be brief, Mr President, and I am almost at the end of my speech.

Hon Peter Foss led us to believe - and without having the benefit of *Hansard* it is possible I may misquote him - that the nature of the written version of the apology was such that rather than a document of regret and withdrawal, or apology, it was a document of justification of Hon Tom Stephens' position and that he did not apologise until the last few words. In the first paragraph there is an apology. In the second a withdrawal and yet another apology; in the third and fourth paragraphs Hon Tom Stephens referred to his anger at the situation, which one may argue could have been justification. In the fifth paragraph we have an expression of regret and another apology; in the sixth paragraph we have Hon Tom Stephens' reflection on the matter and the words concerning his attempt to withdraw those comments from the Press. In the seventh paragraph we have reference to another apology and in the eighth paragraph we have regret, acceptance of responsibility, another apology, a withdrawal and request to *The West Australian* to withdraw. Perhaps Hon Peter Foss was reading a totally different document from that which I was reading, but I believe that apology and its nature needs to be well understood.

In the circumstances which have existed over the past month or so it is true that the House has changed its nature - the nature we have understood should exist in this place



and has existed historically. There are good reasons for that; indeed, I was speaking to members of the Government side this morning, privately, and we expressed our regrets at some of the things that had happened, but I think each acknowledged they were probably inevitable in the circumstances. I believe that the circumstances of the changed nature in this House should be taken into consideration in respect of consideration of the penalty. It is certainly an undesirable change that we have seen happen here. We need to accept that hopefully come Christmas we will be in a better frame of mind. But the changes were inevitable, and I hope that the House and you, Mr President, will be generous enough to take those circumstances into consideration in considering a penalty.

The PRESIDENT: Order! I remind the honourable member that on this question as on every other question the President has no view.

Hon KIM CHANCE: Thank you, Mr President. I was referring more to your natural generosity of spirit than any technicality.

The PRESIDENT: There is plenty of that.

HON A.J.G. MacTIERNAN (East Metropolitan) [5.36 pm]: I support the amendment moved by Hon John Halden. I direct my remarks purely to the issue of the amendment. The question of guilt has not been challenged.

Hon N.F. Moore: We should vote and decide once and for all.

Hon Sam Piantadosi: Let her have her say.

Hon A.J.G. MacTIERNAN: It is the height of insincerity for Hon George Cash to say we should not entertain -

Hon Sam Piantadosi interjected.

Hon P.H. Lockyer interjected.

The PRESIDENT: Order! The minute I start to read something everybody thinks the rules disappear.

Hon A.J.G. MacTIERNAN: I crave your protection, Mr President. There is too much testosterone flying around this House. It is time we had a bit of detailed argument.

Hon N.F. Moore: We are looking forward to it.

Hon A.J.G. MacTIERNAN: I believe it is the height of insincerity for Hon George Cash to claim that this amendment should not be entertained because the question of guilt has not yet been established. In the circumstances where the member has stood accused has acknowledged guilt, and the Government member who made the allegation of guilt and all members on this side who have risen to speak have agreed that guilt has been established, it is time for us to put that aspect of the issue behind us and focus clearly on the appropriate response to the guilt that has clearly been established.

We have heard complaints from the Government that it wants to get on with the business of the day. We are saying there is no contest to guilt, so let us talk about the appropriateness of a response. In determining what is an appropriate response we must clearly look at the precedents in this area. A very direct and clear analogy has already been drawn to the attention of this House in the case of Hon Philip Lockyer some 18 months ago. Hon Phil Lockyer on his own admission made representations to the media which reflected on the Chair. He then realised that his conduct amounted to a contempt. He made an unreserved apology and the matter was left at that.

Hon P.H. Lockyer: They are not comparable.

Hon A.J.G. MacTIERNAN: They are comparable. We have analysed the circumstances: Representations to the media -

Hon P.H. Lockyer interjected.

Hon A.J.G. MacTIERNAN: Is the member saying he did not know what he was saying?

Hon P.H. Lockyer: They phoned me. That is different.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon A.J.G. MacTIERNAN: I am not prepared to reflect so adversely on Hon Phil Lockyer to suggest that he -

The DEPUTY PRESIDENT: Please address the amendment before the House.

Hon A.J.G. MacTIERNAN: I am addressing the amendment. In seeking to establish an appropriate response it is important for us to look to precedent. That is fairly standard provision in a society that subscribes to the rule of law. We move by way of precedent in this matter so that we can be sure that the decisions we make are not decisions that are based on any partiality, but reflect the equality of all before the law. We have a very clear analogy with Hon Philip Lockyer, which he has set out before, where he made, with full intent, representations to the media and upon later contemplation realised that these reflected on the Chair.

Hon P.H. Lockyer: You are misrepresenting me.

Hon A.J.G. MacTIERNAN: Immediately he was apprised of that realisation he withdrew them, and made an unreserved apology, and the matter was left there. This situation is very similar. Hon Tom Stephens made some statements in the heat of the moment, and we have had set out for us quite clearly the highly charged circumstances where, for the first time in the history of this House, a guillotine motion was put in place and entrenched into the practices of the Council. Hon Tom Stephens made an error of judgment and spoke to the media. He made allegations about the partiality of the Chair, which he then realised constituted a contempt and immediately sought to withdraw. Last night and again today he has made an unreserved withdrawal of those comments and outlined for us his attempts to have them withdrawn from the Press.

Hon Tom Stephens: I was just too late. It was not the fault of the Press.

Hon A.J.G. MacTIERNAN: There is no suggestion the explanation made by Hon Tom Stephens reflects on the preparedness of the Press to cooperate in this matter. He was simply too late. The relevance of that conduct is that Hon Tom Stephens was seeking to minimise the harm caused by his error of judgment. He made those unreserved apologies and took all steps possible to mitigate the damage that may have been incurred by his actions, which he quite clearly regrets and has recognised amount to a serious contempt. The matter should have been left there, just as the matter was left in respect of Hon Phil Lockyer. Hon Derrick Tomlinson made a statement that was not as accurate as the comments made by Hon Nick Griffiths from Erskine May.

Hon Peter Foss: At least he was referring to the correct section.

Hon A.J.G. MacTIERNAN: Hon Nick Griffiths was referring to the right section, and if Hon Peter Foss would like to look closely at chapter X in Erskine May he will find it deals with complaints of breach of privilege and contempt. It goes on by way of a subchapter to deal with various aspects of complaints of breach of privilege and contempt. The first subchapter is "Raising of the Complaint", the next "Hearing of Counsel" and then the passage from which Hon Nick Griffiths quoted deals with "Complaints against Members". What we have here is a complaint against a member, so Hon Nick Griffiths located the correct chapter and then the correct subchapter.

The other chapters refer to complaints against committees, against members or officers of the other House and complaints by officers of either House, all of which are not relevant here. We had the correct analysis by Hon Nick Griffiths, the right chapter and the right subchapter. Erskine May is very clear, and because it is so important that we proceed by way of precedent in this instance, I will repeat the comments that Hon Nick Griffiths made referring to Erskine May. Under the general rubric of complaints and breach of privilege and contempt, it says that where a member is accused and has made a proper apology for his offence, the incriminating motion has usually been withdrawn.

It is unfortunate that Hon George Cash has not closely read Erskine May and sought to withdraw his motion.

Hon George Cash: You have forgotten the sequence of events.

Hon A.J.G. MacTIERNAN: It then says that where the member who has made the complaint has not withdrawn his motion, it has usually been set aside by the previous question or by an amendment that the House should proceed to the appointed business for that sitting. What we are attempting to do here is to finalise the matter.

Hon George Cash: That happened at the very beginning of all this. You have forgotten the rest of it.

Hon A.J.G. MacTIERNAN: Because Hon George Cash has not honoured the precedent set out in Erskine May and has not agreed that where there has been a full and proper apology by the member accused - he has chosen to ignore the precedent and not withdraw his motion - we are seeking to bring into play the other solutions that arise in such circumstances. We are effectively seeking to say that the matter will end here and we will proceed with the important business of the House.

Hon George Cash: Let us have a vote on it.

Hon A.J.G. MacTIERNAN: I endorse most fully the comments of Hon Kim Chance. Without in any way seeking to derogate from the sense of this procedure, it is about time we got on with the business of the House. In the eyes of the public this would probably be considered a rather protracted affair. We have now before us an amendment which would allow this issue to be brought to a close, and I ask the House to act on the amendment.

HON SAM PIANTADOSI (North Metropolitan) [5.47 pm]: Mr Deputy President (Hon Barry House), I support the amendment very strongly. Previous speakers have spoken of the passion and heat resulting from what has occurred over the last few weeks, and particularly over the last two days, which caused Hon Tom Stephens to make the comments he did. The statement in which he apologised to the President is very clear, and we all have a written copy of it. The only other example is what occurred last August in relation to the action of Hon Phil Lockyer when he submitted his apology to the House.

Mr Deputy President, could you clarify for me whether the office of the President of the Legislative Council and the President are both one or whether they are two separate offices. This is important because of the next comment I will make. I would appreciate a response. Am I correct?

The DEPUTY PRESIDENT: Order! I think you heard the President say it is not his rule to participate in the debate in any way. It is up to you.

Hon SAM PIANTADOSI: A statement was made alluding to two offices, and I thought it was a reflection on the position and I would like it clarified. It is crucial to what I am about to say.

The DEPUTY PRESIDENT: It is very difficult to see the relevance of what you are saying. I just invite you to continue your comments.

Hon SAM PIANTADOSI: Mr Deputy President, what I would like to clarify is whether the position of President of the Legislative Council and President are one and the same. It is either yes or no.

The DEPUTY PRESIDENT (Hon Barry House): Order! The questions without notice session was held about two hours ago. Members cannot question the President anyhow; it is up to the member to make his own determination on that.

Hon SAM PIANTADOSI: I would rather that I had the opportunity to have the position clarified, but I will continue. The reason I want clarification is that although I pointed out that Hon Tom Stephens unreservedly apologised to the President for his actions, an apology given by Hon Phil Lockyer and recorded in *Hansard* on 25 August 1992 states -

It has come to my notice that an article which appeared in *The West Australian* on 29 or 30 July, or thereabouts, may have been construed as reflecting on the position of the President of the Legislative Council. That was not my intention and if that reflection has been cast, I apologise for it.

He then went on to make another comment which is the important point and why I wanted clarification. I believe that the action of Hon Phil Lockyer on that occasion was not one of a person who was repentant, but of one who reflected on the Chair.

*Withdrawal of Remark*

Hon P.H. LOCKYER: The honourable member is now reflecting on me in his assumption that I reflected on the Chair. That is clearly not the case and I ask him to withdraw that.

The DEPUTY PRESIDENT: The member has requested that the remarks be withdrawn and I invite Hon Sam Piantadosi to do that.

Hon SAM PIANTADOSI: I find it difficult to withdraw a statement that a person made in *Hansard*.

Hon P.H. LOCKYER: Once again, I ask you, Mr Deputy President, to direct the member to unreservedly and immediately withdraw the assumption that I have reflected on the Chair.

Hon JOHN HALDEN: Mr Deputy President -

The DEPUTY PRESIDENT: Order! Let me clarify this point of order. The member has requested that the remarks be withdrawn; therefore, I direct the member on his feet to withdraw those remarks.

Hon SAM PIANTADOSI: Which remark does he want me to withdraw? Does he want me to withdraw the statement in *Hansard* from which I have been quoting?

The DEPUTY PRESIDENT: Hon Sam Piantadosi has been asked to withdraw the implication that Hon P.H. Lockyer reflected on the Chair.

Hon JOHN HALDEN: Mr Deputy President -

The DEPUTY PRESIDENT: Older! I cannot take another point of order until this one is clarified.

Hon JOHN HALDEN: I think I need to clarify it; it is on the same point of order.

The DEPUTY PRESIDENT: I cannot accept that. The point of order has been raised. It needs to be clarified and the only one who can do that is Hon Sam Piantadosi who is on his feet.

Hon SAM PIANTADOSI: I withdraw.

*Debate Resumed*

Hon SAM PIANTADOSI: I will continue to read from *Hansard*, if I may, that Hon Phil Lockyer went on to say -

That was not my intention and if that reflection has been cast, I apologise for it. I want to make it clear that the comment . . .

Hon P.H. Lockyer: You are not speaking to one of your union bully boys now.

*Withdrawal of Remark*

Hon SAM PIANTADOSI: I ask the member to withdraw that remark, Mr Deputy President.

The DEPUTY PRESIDENT: I heard an interjection, although I did not hear what the interjection was. Would Hon Sam Piantadosi clarify the remark he wants withdrawn?

Hon SAM PIANTADOSI: The member made a remark. I believe you should ask the member what that remark was, Mr Deputy President, and he should be made to withdraw it.

The DEPUTY PRESIDENT: It is necessary for the member to explain the remark that he wants withdrawn.

Hon SAM PIANTADOSI: The member referred to me as a union bully boy. If he wants an example I will give him one unless he withdraws, and we will see how good he is.

The DEPUTY PRESIDENT: Order! Everybody knows that it is a well established convention in the House that if one member takes offence at remarks made by another and wishes them to be withdrawn, they should be withdrawn. I would like Hon P.H. Lockyer to withdraw the comment.

Hon P.H. LOCKYER: I withdraw the words, "You are not speaking to one of your bully boys now."

*Debate Resumed*

Hon SAM PIANTADOSI: What a wimp! If I may continue, I would like all members to listen to what was said on that occasion, and I repeat -

Hon P.H. Lockyer: You made a fool of yourself yesterday and you are making a fool of yourself today.

Hon SAM PIANTADOSI: Although I would not dare to suggest to you, Mr President, as I did a couple of weeks ago, that I was prepared to assist in the orderly running of this House, I suggest that you ask the honourable member to desist from his comments.

The PRESIDENT: Order! I ask all honourable members to desist from the interjections. I also ask Hon Sam Piantadosi to stick to the subject matter about which we are speaking.

Hon SAM PIANTADOSI: I have been trying to, Sir.

The PRESIDENT: If Hon Sam Piantadosi heeds what I am saying he will find there will be fewer interjections and fewer offensive words as a result of that.

Hon SAM PIANTADOSI: I guess that the members of the Government are anticipating what I am going to say and are horrified by it, and are trying to draw my attention away from that.

Hon P.H. Lockyer interjected.

The PRESIDENT: Order! Hon Phil Lockyer is testing my patience in continuing to interject when I have asked him to cease. However, that does not mean that Hon Sam Piantadosi can just go on unheeded. He must stick to the point of the amendment that is before the Chair.

Hon SAM PIANTADOSI: I will. Again, I read from *Hansard* what Hon Phil Lockyer had to say on that occasion when he apologised to you, Sir, about the statement that appeared in the newspaper. This is the important part of the quote and why I tried to get that clarification earlier -

That was not my intention and if that reflection has been cast, I apologise for it. I want to make it clear that the comment concerning the position of the President of the Legislative Council was certainly not a reflection on the office of President.

I read that as saying that Hon P.H. Lockyer is not really having a go at the office of the President, but his statement stands about the office of the President of the Legislative Council. That is why I was trying to get clarification earlier.

*Withdrawal of Remark*

Hon P.H. LOCKYER: Once again the member is reflecting on an assumption that I reflected on you, Mr President, personally. I ask him to withdraw that.

The PRESIDENT: I do not know where we are going. The sudden sensitivity of members to some of these comments that are made astounds me because we are going from the sublime to the ridiculous. I do not resile from the fact that it is a standard procedure in this place that we have always adopted that the words that are objected to be withdrawn. However, that convention was built up over a period of years when the things that were being said were offensive. I do not know how one can withdraw an assumption. However, to the degree that the assumption offends Hon Phil Lockyer I want Hon Sam Piantadosi to withdraw it. I want him to do so now and to then sit down because I have more to say.

Hon SAM PIANTADOSI: I withdraw the assumption.

*Debate Resumed*

The PRESIDENT: The office of Presiding Officer is usually occupied by someone who is, in the main, unable to speak. As a person who holds that office, of late I have been doing an awful lot of speaking. That is not something that pleases me, and it certainly is not something that I want to do. However, I tell members that while I sit here, we will obey the rules of this place and we will obey them equally from both sides of this Chamber.

For the life of me, I cannot understand the connection that the member can make with that particular occasion to which he is referring and the words that are proposed to be added to this motion; that is, that in the case of Hon Tom Stephens, his apology be taken as a sufficient penalty. I will tell members why I cannot see the connection; and, again, I should not have to do this, but in the interests of getting this matter out of the way, I find that I have to do it. On the occasion to which the member is referring, it was quite competent for any member in this Chamber to move any motion that he or she wanted to move in regard to the honourable member who had allegedly committed an offence; and in the same way that this motion before the Chair today was not initiated by anything that I have said or done since the article appeared in the paper this morning, obviously at that time it was not for me to initiate any action.

The important thing is that no member of this Chamber thought that it warranted any action whatsoever. Because the House allowed that position to pass without any comment and without any suggestion of any action, the House expired its right to take action. Therefore, the member is on pretty dangerous ground in now raising a question that he had an opportunity, however many months ago, to raise. If members can follow what I am saying, the member's opportunity to do that disappeared the minute that Hon Phil Lockyer sat down.

Let me say this, just in case it is of interest to anyone. Perhaps at that time I would have been delighted if someone had done it, but no-one did, and I did not comment, if members recall, in the same way that I will not comment on this subject and have not commented on it. I want to play by the rules, and I demand that other members play by the rules. Therefore, I inform Hon Sam Piantadosi, and any subsequent speakers, that they will have to play by the rules, because while members may be hot under the collar and experiencing some sort of mid-November malaise -

Hon John Halden: Menopause would do.

The PRESIDENT: - whatever it is - they will have to do it when I am not here. I have done something that I have been able to refrain from doing for 16 and a half years; that is, keep the House here until 6.04 pm. I will not make it any longer, so I will leave the Chair until the ringing of the bells.

*Sitting suspended from 6.04 to 7.30 pm*

Hon SAM PIANTADOSI: I support the amendment moved by Hon John Halden. Some 14 months ago in this House, we accepted an apology from a member and no action was taken. It is rather extreme that 14 months later a similar incident has occurred, yet all of a sudden we hear that the member should be penalised and the suggestion has been made that the member should be expelled. If the death penalty still prevailed in this State, I guess some people would make recommendations in that regard.

Members who were here 14 months ago should reflect on what occurred at that time. The new members obviously did not participate in that decision. At that time members from both sides the House saw fit to accept the apology and let the matter rest there. The same should apply in this situation. In both cases apologies were given. Hon Tom Stephens circulated a written apology today to you, Sir, and to the House for his actions. An apology is also recorded in *Hansard* from Hon Phil Lockyer. For the benefit of those members who were not present at the time, I will read the apology so that members can acquaint themselves with it and be better placed to determine possible agreement with the amendment. The events which occurred were similar, although the apologies were not exactly the same. The apology was -

It has come to my notice that an article which appeared in *The West Australian* in 29 or 30 July, or thereabouts, may have been construed as reflecting on the position of the President of the Legislative Council. That was not my intention and if that reflection has been cast, I apologise for it. I want to make it clear that the comment concerning the position of the President of the Legislative Council was certainly not a reflection on the office of President.

The apology from Hon Tom Stephens was clearly and unreservedly declared to you, Mr President, and to the House. I ask members whether this Chamber is deemed to be a fair House of Review in which everybody receives a fair go? I am somewhat cynical whenever someone raises the question about the impartiality of certain decisions made here, because I believe this is a good example of where double standards apply. Members should carefully look at the statements. Having delved into the matter earlier, I felt I was not in a position to refer to what had happened in the past for various reasons.

I feel somewhat aggrieved that I cannot get to the bottom of the matter or the truth. I was always under the impression that we were to speak the truth on all occasions in this House. If members wanted to express an opinion or wished to have a matter clarified, that would be done. However, it did not seem to be the case on this occasion. I wanted to clarify certain points in that I believe that the statements are different - one is more serious than the other. However, no action was taken on the previous occasion of the apology. I urge members opposite to agree that Hon Tom Stephens in his apology to you, Sir, and to the House added no qualification. The other apology was qualified. That should be taken into consideration. One apology was genuine and the other was not.

**The PRESIDENT:** Order! The honourable member cannot reflect on a previous decision. I do not know why the member is persisting with this point. Whether he is doing it deliberately to antagonise the House or me, I do not know. I do not know how many times the member must be told. We talk about tolerance in this place and providing equal opportunity for each member. However, making all sorts of innuendo is unacceptable, most of which have nothing to do with the amendment before the Chair. Assuming that in the member's mind a connection exists, I have let him go. However, the member cannot reflect on that decision, and to suggest that a member was not genuine when he said something in this place, which was accepted, is out of order. The member must refrain from doing that.

**Hon SAM PIANTADOSI:** I do not want to incur your wrath, Mr President, or antagonise members opposite. Nevertheless, the truth should be heard. I feel frustrated that I cannot take the matter further as action was not taken at the time.

**Hon Peter Foss** interjected.

**Hon SAM PIANTADOSI:** I am as guilty as anyone else, I admit that, Mr Foss. It is time Hon Peter Foss and some of his colleagues who were present stood by their convictions and took into consideration the situation and supported the amendment. It is quite obvious, Mr President, that those members will not do that. If, Mr President, you allowed me to take further the matter of that statement I am sure we would get to the truth. However, I am not able to do that. Hon Peter Foss should match his rhetoric and be counted by supporting the amendment. However, it is obvious he does not have the courage. It would be interesting to have him heard. All we get from Mr Foss is sneers and sniggers at people.

The intent to punish Hon Tom Stephens is on the minds of members opposite without taking into consideration fair play or what has occurred in the past with other members because Hon Tom Stephens is not on their side. I am prepared to admit that I was probably as guilty as anyone else on the previous occasion for not taking the matter further. However, members opposite now have the opportunity of being part of a fair exercise and taking into consideration actions in the past by supporting the amendment. That will at least enable us to keep democracy in the Chamber. Notwithstanding the events of the past few days there may be some hope for the parties in this place to have a more cordial association for the rest of the session.

**HON J.A. SCOTT** (South Metropolitan) [7.42 pm]: Although I shared a newspaper article with Hon Tom Stephens and, indeed, shared the anger with him yesterday following what took place in this House, I did not at any time feel such anger towards the Chair because I believe you acted impartially at all times, Mr President. I believe that the actions of Hon Tom Stephens are in contempt of this House and some form of censure should be applied to him. I therefore disagree with the amendment.

Hon Tom Stephens: The carriage of this motion is to find me guilty of contempt. It is a censure motion.

The **PRESIDENT**: Order!

Hon J.A. SCOTT: Irrespective of whatever punishment is directed towards Hon Tom Stephens I hope the people in this House will remember it will affect not only him but also the people who elected him. If he is dismissed from this House for any time, the people who elected him will be punished because he will not be able to represent those people during the passage of some very important Bills when they are before this House shortly. I refer particularly to the native land title legislation which we will be handling in this place. It is very important that the people Hon Tom Stephens has let down through his actions are represented here. Their views should be put. In disagreeing with this amendment I hope the House will take into consideration those people.

**HON P.H. LOCKYER** (Mining and Pastoral) [7.44 pm]: It will not surprise the President that I do not support this amendment. I am somewhat surprised that Hon Sam Piantadosi would stoop to such a level tonight to defend the indefensible. He has had a bad couple of days by suffering some major defeats as a result of stupid moves within the Parliament and by trying to get square today. I suggest he take a long hard look at himself before he starts again.

#### *Point of Order*

Hon SAM PIANTADOSI: The member is not addressing the motion; he is directing a personal attack on me. He should stick to the amendment before us. If he wants to attack me personally he can see me outside.

Several members interjected.

The **PRESIDENT**: Order! The member is now committing an offence.

Hon Sam Piantadosi: With good reason.

The **PRESIDENT**: I ask Hon Sam Piantadosi to repeat his remarks.

Hon Sam Piantadosi: I said with good reason, Mr President; that was not directed at you, but Hon Phil Lockyer.

The **PRESIDENT**: Okay. I was about to agree with Hon Sam Piantadosi that the member should address the Chair about the words proposed to be added to the motion and ignore the comments made by the previous member and get on with the amendment.

#### *House to Divide*

Hon P.H. LOCKYER: I move -

That the Council do now divide.

#### *Division*

Question put and a division taken with the following result -

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#### Ayes (11)

Hon T.G. Butler  
Hon Kim Chance  
Hon J.A. Cowdell  
Hon Cheryl Davenport

Hon N.D. Griffiths  
Hon John Halden  
Hon Sam Piantadosi  
Hon Tom Stephens

Hon Bob Thomas  
Hon Doug Wenn  
Hon Tom Helm (*Teller*)



Noes (19)

Hon George Cash  
Hon E.J. Charlton  
Hon M.J. Criddle  
Hon Reg Davies  
Hon B.K. Donaldson  
Hon Max Evans  
Hon Peter Foss

Hon Barry House  
Hon P.R. Lightfoot  
Hon P.H. Lockyer  
Hon Murray Montgomery  
Hon N.F. Moore  
Hon M.D. Nixon  
Hon R.G. Pike

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

Question thus negated.

*Point of Order*

Hon JOHN HALDEN: Will you, Mr President, explain exactly what has happened? It is my belief that the result of the division is that the House will not divide. I believe the Government has demonstrated that it is not in control of the business of the House.

The PRESIDENT: The question put was that contained in Standing Order No 110 which is that the Council do now divide. The Noes won and therefore the House will not divide.

*Amendment to Motion Resumed*

Amendment put and negated.

*Motion Resumed*

*House to Divide*

On motion by Hon Derrick Tomlinson, resolved -

That the Council do now divide.

Question (that the motion be agreed to) put and passed.

*Hon Tom Stephens - Penalty for Contempt*

HON GEORGE CASH (North Metropolitan - Leader of the House) [7.53 pm]: I move -

That in relation to the resolution of this House adjudging Hon Tom Stephens guilty of contempt, he suffer the following penalty -

That Hon Tom Stephens be suspended forthwith from the sittings of the Legislative Council for a period of four days inclusive of the balance of today's sitting.

HON JOHN HALDEN (South Metropolitan) [7.54 pm]: As I suspected at the beginning of this process, perhaps it was unfortunate that the Leader of the House did not amend the original motion and get on with this business. At least we have reached this stage.

Hon George Cash: Do not push your luck because many people on this side said that the penalty is not enough.

Hon JOHN HALDEN: What would the Leader of the House like to do?

Hon George Cash: Push your luck and see.

The PRESIDENT: Order!

Hon JOHN HALDEN: I said before that I hoped this House would be temperate with regard to this situation. Recently in this House a similar motion was put when the Opposition sought an apology from the Minister for Transport. That motion was defeated on party lines and we could not establish a privilege committee to assess the situation. I accept that decision in a public way, but I am sure that anyone who perused the debate in the House may have formed views to the contrary.

Another motion was moved in this House expressing concern about the comments of Hon Ross Lightfoot who talked of Aborigines as being the bottom colour of the

civilisation spectrum. The Leader of the House has not censured that member for those comments, which I believe are outrageous. I do not propose to put myself in a difficult situation, although I have a personal view on the matter, and I leave it to others to compare the comments of Hon Ross Lightfoot with those of Hon Tom Stephens and to make their judgment. What penalty has been imposed on Hon Ross Lightfoot by this House? There has been no censure whatsoever of the member by the Leader of the House, in spite of the comments made by members of his own party in another place. This House made a decision and obviously the Labor Party has supported that decision of the House. However, these comments having been made by Hon Tom Stephens, the Leader of the House seeks to impose a four day suspension on the member. If the statements of the two members are taken in their context, one must query whether there is any justice. I do not believe there was a great deal of justice in the previous motion, except the justice of the numbers.

I do not want to take a long time debating this matter, but wish to refer to the salient facts. I hope I will not offend Hon Phil Lockyer by referring to an occasion when he made a statement that was an affront to the Chair. I remember when that happened, and Hon Joe Berinson asked me whether we wished to pursue the matter. He prefaced his question by saying that it was in the interests of the House and the business of Government that we did not pursue the matter. Hon Joe Berinson said that Hon Phil Lockyer had made a statement he believed was appropriate, and whether or not we agreed with it, there were other avenues through which to disagree with it. He suggested that in the interests of the decorum of the House and allowing the House to function in a reasonable way, the matter should not be pursued. Hon Joe Berinson put that to me in a far more cultivated, intelligent, and skilful way. I did not hesitate for a second before agreeing with him. All the members made the right decision at that time. What was the point of moving a matter of privilege after the member had apologised? He had made his statement to the House, and no matter what extraneous issues may have surrounded the matter, they were not the business of the House.

Hon George Cash: That logic suggests that if you go to the District Court tomorrow at 10 o'clock and tell everyone charged with an offence to apologise, the court will impose no penalty.

Hon JOHN HALDEN: It is a most appropriate point. We will go to the court and say that the charge against Hon Tom Stephens is that in anger he said that you, Mr President, were partial.

Hon Peter Foss: Twice.

Hon JOHN HALDEN: No, only once. It was a very simple matter.

Hon Nick Griffiths might comment on this later, but if this case were before the District Court the court would see the sense in the member apologising. It would not want to gaol him for four days. I know that is not a good analogy. The District Court would not want to bar Hon Tom Stephens from going to a particular place for perhaps four days. If this matter were in the charge of the District Court the judge - which in this case will be the members in this House - would accept the apology. Attached to that order for an apology might be a lot of qualifying words about further repetition and other matters, but the case would receive a sensible review by the District Court. I am asking members to review this issue sensibly.

We are dealing with a personality conflict between Hon Tom Stephens and a number of members opposite and I say that based on comments which have been made in this place. We should not let that conflict influence a judgment about this sort of penalty. It is a very grave penalty and Hon Jim Scott, in a very short dissertation to the House, made the point that by suspending the member he will not be caused a great deal of harm, but it will stifle his ability to represent the people who elected him.

Hon George Cash: He should have thought about that before he spoke.

Hon JOHN HALDEN: The Leader of the House should have thought about the comment he made to me earlier. I am sure it was said in haste and that it was not well considered.

In the heat of the moment we all say things that we regret later. I am not suggesting the Leader of the House is the only member who does that - I have done that hundreds of times.

Hon George Cash: I do not have any regret saying that if someone amends this motion to seven days I believe members on this side of the House will support it unanimously.

Hon JOHN HALDEN: The Leader of the House is threatening me.

Hon George Cash: No, I am not.

Hon JOHN HALDEN: Again, by way of interjection we are confronted with another situation. There is now an element of threat that because the Opposition will not accept four days, Hon Tom Stephens is about to get seven days. That was my original fear. The Leader of the House should have moved that way when the House considered my amendment that there be no penalty. The House could have debated the two matters together. If members opposite want to amend the motion to read seven days they can do so - they may go a step further and do what Hon Derrick Tomlinson suggested and expel the member. Let us not be ridiculous. An apology has been made and it should be accepted.

The Government has put in place the guillotine and I will not go over that again. However, if it wanted to get on with the legislation that is before this House it would have accepted the member's apology and got on with the business of the House. Members on this side of the House will not be intimidated by the Leader of the House making the sort of comment he did a moment ago and that is the reason we endeavoured to get him to be up front and tell the House what he was talking about. I do not believe his comments were directed at me, but at Hon Tom Stephens, and that is the problem I identified earlier.

I ask members opposite to be reasonable and tolerant. If they make intemperate remarks the Opposition will have no choice but to endeavour to extract from them an indication of where they stand in this matter. It is unbelievable that that sort of proposition should have been put in the way it was by the Leader of the House. It justifies the Opposition's great concern about what could happen to this member by virtue of the personality conflict.

We should be debating the issue; that is, that Hon Tom Stephens said that you, Mr President, had acted partially. I do not agree and have never agreed with that. Hon Tom Stephens does not agree with that now and he has apologised. We cannot have an auctioning system based on who hates whom the most and whether the penalty should be four, seven or even 14 days. At the end of the day Hon Derrick Tomlinson will expel the member or hang him from the fan for 24 hours. The tragedy of this situation is that we are dealing with a personality conflict.

Hon N.F. Moore: You have it wrong.

Hon JOHN HALDEN: Members opposite are supporting him by their comments, but perhaps Hon Norman Moore does not.

Hon George Cash: I got it wrong.

Hon JOHN HALDEN: I know the Leader of the House got it wrong by way of interjection.

Hon George Cash: My members have told me it was too soft.

Hon Tom Helm: You are called the leader - lead.

The PRESIDENT: Order!

Hon T.G. Butler: The softest thing about the Leader of the House is his teeth.

Hon N.F. Moore: At least he still has them.

Hon JOHN HALDEN: It is not a matter of being too soft or too hard. We should consider this issue in its proper context and compare it with what is happening outside this place, where it does not rate a ripple. It should have been kept in that context.

Mrs Smith who cannot feed her kids will not think this is a relevant way for this House to spend its time. While we are in this place the Opposition will neither be intimidated by the Government nor will it play its games.

It is a sorry state of affairs that these comments have been made today in this privilege motion. In every respect this debate justifies the Opposition's original concern that it did not know what the Government was up to. I reiterate that there are precedents and they should be accepted. We should deal with this matter as the District Court or any business would deal with it. They would be annoyed, make a statement of their annoyance, and get on with their job. In spite of the guillotine motion and the Government's claims that it wants to get on with the legislation that is on the Notice Paper, we have been witnessing a series of games played by the Government against a particular Opposition member and the Opposition as a whole. The whole thing is an appalling sham.

**HON TOM STEPHENS** (Mining and Pastoral) [8.08 pm]: By way of a plea in mitigation, I make the following comments; but firstly, my plea in mitigation is not based on any suggestion that what I did was in any way contributed to by the response to my comments by either the journalist who copied down those comments or the newspaper which published them. When I said earlier in today's debate that I had gone to the Press Gallery after my cool reflection upon those comments to see what chance there was of those comments not being covered, *The West Australian* journalist did not resist that approach. The process went like this: I was in the Press Gallery, in *The West Australian* office, discussing those comments with the journalist. The journalist took the opportunity to call up the story on her screen so that we could discuss the comments that she had reported. That coincided with a telephone call to the journalist presumably from a member of staff of *The West Australian* newspaper saying, "The second edition has to roll; that story has to come off the screen." The journalist had no choice but to press the go switch. The story was sent down the line, and onto page 13 of *The West Australian* newspaper, through no fault of that journalist.

Hon George Cash: You made an attempt to have the story stopped?

Hon TOM STEPHENS: I made an attempt to have the staff at *The West Australian* newspaper stop that story.

Hon George Cash: You then found later that did not occur?

Hon TOM STEPHENS: I was not too sure of what would happen, and that was the problem. I did not understand the second and third edition processes. I was a little confused about the second and third editions; however, I now understand that process much better as a result of my efforts and the situation with which I am faced. I am certainly not pleading mitigation to lay any sense of responsibility for what I have said on either that journalist or *The West Australian* newspaper. If this penalty were to be applied now by way of a motion of this House, I would regret most that I would not be in the Chamber to discuss another motion which the Leader of the Government foreshadowed after his interjection earlier in today's debate about him not raising the issue of the role of *The West Australian* newspaper when he said, "Just a moment; give me time."

Hon George Cash: That is right.

Hon TOM STEPHENS: I am left with the impression that, after the Leader of the House has dispensed with this motion, he may move another motion about *The West Australian* newspaper. Am I right in that impression?

Hon George Cash: I will move a motion of privilege in a moment; yes.

Hon TOM STEPHENS: By itself that is reason enough for the House to defer consideration of this motion, at least, to allow me to be in the House when that motion is discussed. I am the one person who was privy to the situation with which *The West Australian* was faced.

Hon Peter Foss: You can appear before the committee.

Hon TOM STEPHENS: There is no committee at the moment.

Hon Peter Foss: If there is one, you will be able to appear before it.

Hon TOM STEPHENS: I wonder whether I can if I have been suspended for four days. Can I, for instance, work on the Standing Committee on Government Agencies next Thursday? We have some important work to do.

Hon E.J. Charlton: You should have thought about that last night.

Hon TOM STEPHENS: I am passionately interested in that work and we have a report to build up. I am very interested in participating in the deliberations of that committee next Thursday.

Hon George Cash: I bet you are.

Hon TOM STEPHENS: As well as that, I would like to be in this House in a few moments' time to cast some light on the situation with which the House will be faced if Hon George Cash dares to move the motion of which he has given some hint, some foreshadowing. In mitigation and in the argument against the passage of this motion, I have tonight copped a penalty by this House that no-one in this House - in fact, I do not know whether in the history of this House anyone else has copped that penalty; I suspect not - has copped. I am being found guilty of contempt in this House. I pleaded guilty to that charge, and have been found guilty of it. Surely, that is penalty enough. However, the Government does not want to leave it there, in case it was not penalty enough and for other reasons as well. I believe the apology was deserved. I unreservedly apologised last night and again this afternoon knowing only too well those sections of Erskine May's *Parliamentary Practice* that have been quoted in the House by Hon Nick Griffiths and Hon Alannah MacTiernan which indicate that when a member has apologised in regard to a contempt of the House, it has been customary for the motion of contempt to be withdrawn. Instead of withdrawing the motion in light of that custom, this Government proceeded with that motion, having heard my apology, and then proceeded to move the draconian penalty that I be suspended from this House for four days.

As well as that, I run another penalty; that is, the self-confessed humiliation that I made an error of judgment. I have confessed to that error of judgment; I have apologised and I have withdrawn those comments that were made while I was working with the error of judgment. Had I not apologised, I could well understand this motion being moved by the Leader of the Government. Indeed, let us keep this matter in perspective. The motions that were moved in the other House to suspend Jack Skidmore were not following his apology; they were because he would not apologise.

Hon R.G. Pike: Like you did not a couple of days ago.

Hon TOM STEPHENS: His penalty was a suspension for three days. In the face of that precedent, I have apologised and, despite that, I got a motion charging me with contempt, to which I have pleaded guilty. In the face of that guilty plea, I am still to face a penalty of four days' suspension. The Leader of the Government in this place says, "Well let us take the court situation. Are you trying to tell us that if you go down to the courts charged and convicted of something, you will get let off?" Mr President, I know a classic example of that in this place. In the corridor in the early days when I was here I was assaulted by Hon Phil Lockyer.

Hon P.H. Lockyer: A light tap.

Hon TOM STEPHENS: Mr President, Hon Phil Lockyer was not charged by this House. This House chose not to charge him with that contempt of the House. So I laid my complaint with the police. He, Sir, was found guilty of that criminal assault upon another member of this place. He was found guilty of a contempt of this House but was let off as a first offender.

Hon P.H. Lockyer: Quite rightly so.

Hon TOM STEPHENS: The member says, "Quite rightly so". Does Hon George Cash want to draw on his illusions of the courts down the Terrace?

Hon P.H. Lockyer: A trivial offence, they said.

Hon TOM STEPHENS: They did not say that.

Hon P.R. Lightfoot: You could get another four days the way you are going.

Hon Tom Helm: The rude bully boy; big mouth.

The PRESIDENT: Order!

Hon TOM STEPHENS: All these things have a history. When Hon George Cash draws our attention to the precedents down the Terrace it is worth while to show that we have a precedent with this person who was guilty of a criminal assault upon me in this place and who, in the face of that criminal assault, was let off as a first offender. Since that time, he has assaulted other people who have not laid complaints.

*Withdrawal of Remark*

Hon P.H. LOCKYER: I demand that comment be withdrawn. There is no evidence of that whatsoever.

The PRESIDENT: Order! The member will withdraw the comment.

Hon TOM STEPHENS: I withdraw.

*Debate Resumed*

Hon TOM STEPHENS: The additional argument I would use is this: This Parliament -

Hon P.H. Lockyer interjected.

The PRESIDENT: Order! Hon Phil Lockyer will come to order. He is continuing to defy my request that he stop interjecting. That goes for whoever else is interjecting as well. However, he is the one with which I am concerned at the moment.

Hon TOM STEPHENS: In recent years this House of Parliament has seen a number of slights against its integrity and against the Chair by the Press. I recall the reflection upon Speaker Barnett in the Legislative Assembly, when an editorial in *The West Australian* referred to him as the most biased Speaker in the history of the Parliament. Hon Bill Stretch just nods his head.

Hon W.N. Stretch: I remember it.

Hon TOM STEPHENS: The House did not rush to defend the Speaker at that time against that accusation, because the House, and I presume the Speaker, chose to just wear that freedom of expression by *The West Australian* and that slight of the Speaker. On this occasion - for other reasons, I put it to you, Mr President - this Government is choosing to adopt a different standard, where it has a sensitivity to what it regards as a reflection upon the Chair, which has been apologised for and withdrawn. Reflections upon the Chair are not appropriate, should not happen, should be withdrawn, and should be apologised for, and hopefully will never re-occur.

These matters have a history. I have a good friend, Father Tim Quinlan, whose grandfather, Timothy Francis Quinlan, was the first Speaker of the Legislative Assembly in 1890. He was the first Speaker of the Legislative Assembly to ever suspend a member of the Legislative Assembly. That occurred in 1910. Soon after his speakership, there was the speakership of Bertie Johnston, who experienced the shortest speakership ever experienced in the Legislative Assembly; namely, for a fortnight in February 1917. Bertie Johnston was a Labor renegade turned Independent and was put in the Chair by the second Wilson Liberal Government to save it from defeat on the floor of the Chamber. Labor tolerated Speaker Johnston for five sittings, and then rebelled when he tried to suspend a member, James Barkell Holman, for disobedience. Bedlam reigned for an hour, with the Sergeant at Arms and a burly policeman too frightened to obey Johnston's orders to evict Holman. When Holman ascended to the Chair and threatened to yank Speaker Johnston out of it, Speaker Johnston armed himself with a heavy inkstand to use on Holman's head should he come any closer. Finally, Speaker Johnston fled the Chair, never returned, and resigned. That happened a long time ago, but that is the process that was unleashed in the similarly heated moments in 1917 in the Legislative Assembly when there was a minority Government that had lost its majority on the floor of the House and tensions were running high.

Hon Tom Helm: What was the punishment?

Hon TOM STEPHENS: Interestingly, the only punishment seems to have been that the Speaker fled the Chair! Mr President, I am not suggesting that should happen tonight. In fact, I would argue the opposite. Mr President, you would know that we on this side of the House have deliberately responded to the situation that I have caused by viewing this matter as seriously as it should be viewed. My colleagues could tell you, Mr President, that I was the first person to go to my party room and say, "I want to apologise. I want to take the opportunity of rising first in the House to apologise. I want to agree to a motion that charges me with contempt, because I think that is the appropriate penalty for me." I hope some of my colleagues will not mind my saying about them - I will not name them - that they would have liked to adopt a different view, and different views could have been put to the House, but my colleagues have, by and large, accepted my counsel, have stuck by me on this occasion and have allowed me to apologise.

Hon Sam Piantadosi: We all make mistakes.

Hon TOM STEPHENS: Yes, and I acknowledge that I have made a mistake on this occasion. In the face of that mistake, I have apologised and have agreed to the House finding me guilty of contempt, but I resist this penalty.

Hon Sam Piantadosi: What I meant by saying that we all make mistakes is that probably we made a mistake in supporting you!

Hon TOM STEPHENS: I do not want to get into a Dutch auction between Hon Sam Piantadosi and the Leader of the House about for how many days I might have to be suspended from this House, because I say to you, Mr President, and through you to my colleagues, and I know Hon Sam Piantadosi was joking -

Hon Sam Piantadosi: Don't be so sure!

Hon TOM STEPHENS: Hon Sam Piantadosi needs to know that I am not seeking a holiday from this House. This motion would effectively give me four days' absence from this House. It would be an extraordinary situation if, in response to a breach of privilege, members opposite gave me a holiday from the hard work that is ahead of us over the next four days. I do not seek that holiday. I want to be in this place to work, on behalf of the people of Western Australia, on the Bills that are before this House.

Members opposite should not mistake me for playing the role of Brier Rabbit. I am not saying to members opposite "Please don't throw me into the briar bush" in the hope that they will throw me into the briar bush. What I say, I mean. I do not know whether it means anything to members opposite, but I do not want to be expelled for this error of judgment, this contempt of which I have pleaded guilty. I want members to vote against the penalty that would be imposed by the motion moved by Hon George Cash, if I am not successful in getting him to withdraw his motion on the basis of my sincerity in arguing my case that it should be withdrawn. To be quite frank, some members in this House have asked me whether I would be prepared to cop a fine. I understand that some members have even considered moving a motion to fine me. In response to that, unlike the situation with which Hon Phil Lockyer was faced when he went to court, where he did not have to cop a fine, I would be prepared to cop a fine.

Hon Reg Davies: That would be a step backwards, because the last time a fine was imposed was in 1666!

Hon TOM STEPHENS: Unfortunately, sometimes in this place it is back to the future. I would willingly accept some of the suggestions of members opposite in preference to expulsion. I think someone suggested a lashing. I would prefer a lashing.

Hon Peter Foss: Be serious!

Hon TOM STEPHENS: I am serious. Test my will. I do not want to be expelled from this Chamber. I passionately want to deal with legislation that is before this House. Which is the bigger contempt of the House? Is it more of a contempt of the House to use the gag or the guillotine motion on the House, without apology, than to reflect on the Chair and then apologise? Which is the bigger contempt of the people whom we

represent? When Ministers deflect, or decline or refuse to answer, questions that are asked at question time or are on the Notice Paper, is that a contempt of the House? Should this Government be judged by the people of Western Australia as a Government which is not showing good form in this place and is treating the House with contempt as it declines to answer questions about its activities?

Hon W.N. Stretch: We spent 10 years listening to "The member will be advised in writing."

Hon TOM STEPHENS: In the short time that the Court Government has been in control, Ministers have declined on innumerable occasions to answer questions on the Supplementary Notice Paper on a host of issues.

The PRESIDENT: Order! Without wanting to appear to be harassing the member, I must remind him that the path he is following now is out of order. If he feels that these matters are worthy of some action there is a proper and appropriate way to deal with them. The member cannot during the course of this debate raise accusations against some other members in this place, which are totally unrelated. I ask the member to stick to the subject matter of the motion which, as the member rightly says, if it is carried, means that he leave the House for four days. I would spend my time convincing the House not to do that, were I the member.

Hon TOM STEPHENS: The four day penalty for an offence - of which I have pleaded guilty and for which I have apologised both to you, Sir, and to the House - is excessive. This House has already seen an effort by the Opposition to raise what we consider to be a matter of privilege, but because of the numbers in this place we could not even get as far as considering the penalty question because the House would not allow us to go to a Select Committee of Privilege where the evidence could be weighed. Let us face it, we are in a situation where this House is deliberating on this question along party lines.

Hon Peter Foss: You were convicted, with one dissentient voice.

Hon N.D. Griffiths: He was convicted by his plea of guilty.

Hon TOM STEPHENS: It should have been without a dissenting voice. I supported the motion to find me guilty of contempt.

Hon Peter Foss: Party lines will not find you guilty.

Hon TOM STEPHENS: I ask therefore in the context of dealing with this second motion - not the earlier motion of contempt - that Mr Foss focus attention on the fact that we are dealing with a motion that would expel me for four days. There may be party lines that will form around that motion. I put to you, Sir, and I hope I speak correctly, that my colleagues will vigorously oppose that penalty if I am to understand the lead given to the House by the Deputy Leader of the Opposition; certainly all indications given by my colleagues are that they believe that the conviction of contempt and the apology is penalty enough. In the face of that situation, I understand my colleagues are urging the House not to go along with the motion moved by Hon George Cash.

The passage of the second motion will do a number of things about which I have spoken, but it will do the following things as well: It will bring on the House the contempt of the community -

Hon P.R. Lightfoot: You should have thought about that before you said it.

Hon TOM STEPHENS: - because the community can see that one of its number - this representative from the Mining and Pastoral electorate, with a passionate interest in a number of items of vital importance to that electorate - will not have the opportunity to contribute.

Hon Peter Foss: That is the most amazing plea in mitigation that I have ever heard.

Hon TOM STEPHENS: The motion is an overreaction to the number of times I have endeavoured to communicate the contrite apology that I have made to the Chair and to the House. It is completely out of proportion to the previous experiences. Who should be censured more? Should it be a Government who a few moments ago in this House



used the gag motion to gag debate and then voted against the gag motion - the person who moved the gag crossed the floor to defeat the motion? Some people could look at the Government and say that the lunatics are finally in control of the asylum. This is a circumstance when the community could rightly judge this place in that way. The guillotine motion has been put in this place at great cost to the House, almost with two days' debate, and the next day - in the face of my apology and guilty plea - the Government will not communicate to this side of the House through its leader what penalty was on the leader's mind, or discuss it behind the Chair, or in any other situation which would allow consensus to emerge to avoid protracted debate over the penalty. We could have avoided the long debate on the first question that I be found guilty of contempt, if the Leader of the House had taken the opportunity to go behind the Chair and discuss the matter with the Deputy Leader of the Opposition, in the absence of our leader. That would have been the appropriate place.

Hon Peter Foss: Is this contrition that you are expressing on your part?

Hon TOM STEPHENS: I am. This is contrition.

Hon N.D. Griffiths: You would not understand contrition, Mr Foss.

Hon TOM STEPHENS: This House will not be brought into contempt in the eyes of the wider community by the reflection on the Chair for which I have apologised, withdrawn, and been found guilty; but it will be brought into contempt by this House overreacting and responding in this way, by depriving me of the opportunity of being here to discuss the serious legislation that will be placed before the House over the next four days.

I urge the Leader of the House to desist from this motion. This might be his short-cut to obtaining an artificial pair for one of his members, where the numbers are so narrowly balanced between the Government and Opposition benches. By getting rid of me, he might be able to remove a Government member on an artificial pair that is no longer available to him - by this suspension motion - but that surely should not be the motivation of Hon George Cash.

Hon Peter Foss: Are you suggesting that?

Hon P.R. Lightfoot: That is disgusting.

Hon TOM STEPHENS: If there were another motive for moving this motion -

#### *Point of Order*

Hon PETER FOSS: The member should be given wide latitude but we have sat here listening to one insult after another, in the name of making a plea in mitigation. This has gone beyond what is reasonable in the circumstances.

The PRESIDENT: Order! I wish there were not so many Presiding Officers in this place. It is bad enough having one. While we have one, he is responsible for interpreting whether the member is straying from the subject. I suggest he is straying from the subject. Again, I have been giving him some latitude but he goes further and further, causing members to rise on points of order. I cannot keep rejecting the points of order if the member deviates from the point. I suggest the member spend his time talking about the facts of the case as distinct from extraneous matters which have nothing to do with it.

#### *Debate Resumed*

Hon TOM STEPHENS: I am opposed to the motion moved by Hon George Cash which would, in response to the conviction for contempt to which I have pleaded guilty and for which I have apologised, have me suspended forthwith for four days. If the Leader of the House were serious about the privileges of this place and the need for a suspension motion such as this, in the time he has been in this place there have been numerous occasions on which he could have risen to his feet to have a member found guilty of contempt and then to move a suspension motion against him. In the moving of this motion, Hon George Cash demonstrates that he does not have any bona fides in this regard. He argues that it is important for the operations of this place that this motion be put and agreed to, that it is important that a penalty be applied. I argue that the opposite

is the case. The House has heard my apology, my plea of guilty and the arguments put to it about the number of previous circumstances with which this House has been faced that did not lead to a suspension of a member or a conviction for contempt; but, in the face of that argument, Hon George Cash is still disposed towards continuing with his motion in a vindictive, harsh, unconscionable and unfair way.

Hon George Cash: With your comments, you are hardly winning many votes on this side, I have got to tell you.

Hon TOM STEPHENS: Hon George Cash has made it clear that he has the numbers on that side of the House. In the end, the thing that will put this Government back in its box will not be the motions that the Leader of the House moves in this place or the arguments that we put to the Government; it will be the contempt in which it is eventually held by the wider community for the excesses in which it engages in this place not only with this motion that would suspend me for four days -

Hon Peter Foss: It shows you do not have any contrition at all; you really do not.

The PRESIDENT: Order! The member should ignore the interjection.

Hon TOM STEPHENS: Yes, Mr President. The excesses of this Government will eventually be discovered by the community and they will judge the many breaches that it has engaged in since coming to office as contempt of the Western Australian community. To disguise its own breaches, the Government has trotted out a suspension of me from the House so that in some sort of scapegoat way it can hold me up for ridicule to the wider community for an offence for which I have apologised and pleaded guilty. On the other side of the House, there is no contrition and there are no apologies for the many contempts of this House that the Leader of the House, his frontbench members and his backbench members have perpetrated in this House and on this community in the short time in which they have been in office.

HON PETER FOSS (East Metropolitan - Minister for Health) [8.45 pm]: I was interested to hear the analogy given by Hon Tom Stephens of the first offender. He is not a first offender.

Hon John Halden: Are we going to go back into history?

Hon T.G. Butler: If you apply that logic, every time you ask him to withdraw something, he has offended.

Hon PETER FOSS: Hon Tom Stephens - much to your regret, Mr President - caused you to have to use the powers available to you to require him to be moved from the Chamber when he, once before, used language disparaging of a member of this House and defied the Chair when told to withdraw it.

Hon Kim Chance: That is not a breach of privilege.

Hon PETER FOSS: Of course it is a breach of the privilege of the House.

Hon John Halden: That is ridiculous!

Hon PETER FOSS: Yesterday, during the course of the discussion which took place - I will not read it again because I find it quite distasteful - at page 18 of the *Hansard* proof he accused you, Mr President, of partiality while supposedly making his explanation and apology. He accused you during that apology. That was again, I believe, a blatant indication of the way in which his apologies mean nothing. At the end of that, he said, "I apologise" and you, Mr President, very kindly accepted that apology and he withdrew. But as an indication as to what his apologies are worth, he went straight from this Chamber and reiterated what he said in this Chamber. It may be appropriate when an apology is made to accept it, as you did, Mr President, yesterday. But if, having made that apology, the member then goes out and says exactly the same thing, we must have serious doubt as to the sincerity of that apology.

I must say that I find the sincerity of the apology offered today very thin. At no stage has the member said, "Mr President, I accept that what I said was incorrect." He has always phrased it in terms, "I recognise that the words should not have been uttered. I recognise

that they are a reflection on the Chair and, therefore, I apologise." But he has never actually, I believe, given an apology. What is more, during the course of his plea in mitigation, he has had the extraordinary approach of saying that the processes of this House - in other words, the votes of this House - properly moved in accordance with the orders of this House are more of a contempt than his behaviour.

*Point of Order*

Hon TOM HELM: I do not see what that has to do with the matter before the House. I bring to your attention, Mr President, that those matters referred to by Hon Peter Foss have been attended to and have nothing to do with the matter before us.

The PRESIDENT: There is no point of order.

*Debate Resumed*

Hon PETER FOSS: The whole tenor of his speech was not one saying, "Yes, I recognise that what I have done is a contempt of the House." Having paid the lip service and having had the motion passed against him, he proceeded to deny the very offence. He proceeded to say that the legitimate processes of this House are a contempt and that, by comparison, what he did is not a contempt. He has reflected on numerous decisions of the House and in doing so he again broke the rules. All the way through his speech, instead of our seeing some form of apology or contrition, we heard calumnies against the Leader of the House accusing him of trying to get a free pair and of viciousness, and he called that a plea in mitigation. It makes it quite clear that what he has said up to date is no more than a formality. I know his background. He may think that if he confesses, everything should be forgiven forever. Time and time again it has been shown that his apologies are worth absolutely nothing.

Having heard this plea in mitigation, I believe that the Leader of the House is being far too lenient. I think a month would be more suitable after having had a disclosure as to how clearly what has been said has absolutely nothing to do with any sort of contrition; it is just an attempt by him to go through the formality and get himself off the hook. That is all he has tried to do. Everything he has said has made it quite clear that he does not believe he did anything wrong whatsoever. He believes that what he did is a technicality that he got caught on and because he has gone through the other technicality of saying he is sorry that should be the end of it.

This member has consistently shown defiance. Mr President, he is the first person that you have named in the House and had removed from the House. During his apology, he engaged in the most extraordinary accusations against you, Mr President, and having apologised for those, went out of the House and repeated them. By the way in which his last speech was made, his apologies are quite plainly a total waste of time. I believe that the Leader of the House has been incredibly lenient in moving the amount of time that he has. However, that being the judgment of the Leader of the House, I am prepared to accept it and go along with it.

*House to Divide*

Hon PETER FOSS: I believe that we have spent enough time on this and I move -

That the Council do now divide.

Question put and a division taken with the following result -

*Division*

---

*Ayes (18)*

Hon George Cash  
Hon E.J. Charlton  
Hon M.J. Criddle  
Hon Reg Davies  
Hon B.K. Donaldson  
Hon Max Evans

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

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

## Noes (13)

Hon T.G. Butler  
 Hon Kim Chance  
 Hon J.A. Cowdell  
 Hon Cheryl Davenport  
 Hon N.D. Griffiths

Hon John Halden  
 Hon A.J.G. MacTiernan  
 Hon Sam Piantadosi  
 Hon J.A. Scott  
 Hon Tom Stephens

Hon Bob Thomas  
 Hon Doug Wenn  
 Hon Tom Helm (*Teller*)

Question thus passed.

*Division*

Question (that the motion be agreed to) put and a division taken with the following result -

## Ayes (18)

Hon George Cash  
 Hon E.J. Charlton  
 Hon M.J. Criddle  
 Hon Reg Davies  
 Hon B.K. Donaldson  
 Hon Max Evans

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

Hon M.D. Nixon  
 Hon R.G. Pike  
 Hon B.M. Scott  
 Hon W.N. Stretch  
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 Hon Muriel Patterson (*Teller*)

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Hon T.G. Butler  
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 Hon N.D. Griffiths

Hon John Halden  
 Hon A.J.G. MacTiernan  
 Hon Sam Piantadosi  
 Hon J.A. Scott  
 Hon Tom Stephens

Hon Bob Thomas  
 Hon Doug Wenn  
 Hon Tom Helm (*Teller*)

Question thus passed.

[Hon Tom Stephens left the Chamber].

**MOTION - SELECT COMMITTEE OF PRIVILEGE APPOINTMENT**

*Editor of "The West Australian", Comments Publication a Contempt of the House*

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [8.59 pm]: I move -

That a Select Committee of Privilege, with power to send for persons, papers and records, be appointed to inquire into and report not later than Wednesday, 1 December 1993, as to whether the editor of *The West Australian* has committed a contempt of this House by publishing an article in that newspaper on Thursday, 18 November 1993 quoting the remarks of Hon Tom Stephens accusing the President of partiality in the discharge of the duties of his office.

I believe there is a need for the establishment of such a committee.

*Point of Order*

Hon TOM HELM: What is the position with regard to other members of the House getting a copy of the motion? We did not get a copy of the last motion, but this is pretty important. I apologise for the interruption.

The PRESIDENT: It is a courtesy that should be extended.

*Debate Resumed*

Hon GEORGE CASH: There is a need to establish such a committee to determine a number of matters. I claimed in the earlier debate that the publication of the comments that have now been admitted by Hon Tom Stephens are a contempt of the Parliament. I refer, of course, to those comments that suggested that you, Mr President, were not being impartial. In my view, they will have caused not only distress to you but also brought

into question the general management of this House and the manner in which we conduct the business of this House. Furthermore, Hon Tom Stephens has made certain claims about his interview with a journalist from *The West Australian* and from the number of times that he went over his comments and claims, I was unable to follow the exact path that he claimed he trod. There is a need for a committee to establish the veracity of the comments that have been made. Certainly I cannot confirm the statements because I am not aware of all the facts surrounding the interview that Hon Tom Stephens said he had with the journalist from *The West Australian*. I was not there, so I do not know what was said.

Hon T.G. Butler: But you found him guilty anyway.

Hon GEORGE CASH: I will remind Mr Butler of one thing -

Hon T.G. Butler: I will remind you of one thing: You people were his accusers and also sat in judgment on him.

Hon Cheryl Davenport: And his executioner.

Hon GEORGE CASH: It does not take people long. Hon Tom Stephens only a few seconds after standing made that admission. He even suggested the motion should be supported.

Hon A.J.G. MacTiernan: You said that was not relevant.

Hon GEORGE CASH: I do not know the real situation behind the comments of Hon Tom Stephens. I believe that the publication of those comments has seriously libelled you, Mr President, and indeed has cast a reflection on members of this House. There is a need for the Select Committee of Privilege to be established so that we can determine the facts about the publication of this grossly libelous statement. It is also worth noting that a newspaper has a number of obligations that must be met before it prints an article that could libel an individual or individuals. Firstly, I would expect it to be required to check out the facts before publication. I would expect there to be a need to consider the likely effect on the reputations of those on whom the article might reflect. I do not know and I hope the committee will be able to determine whether *The West Australian* tested the veracity of the statement that Hon Tom Stephens has admitted he made.

A lot of questions need to be answered about what exactly happened after Hon Tom Stephens left this House and when those statements were published in the newspaper. Hon Tom Stephens made certain claims about approaching *The West Australian* and asking it to withdraw or alter the story, or something to that effect. The mere fact that I am not able to fully recall what Hon Tom Stephens said is a clear indication of the need to look into exactly what is happening. But Hon Tom Stephens did say he had discussions with *The West Australian* after he had had time to reflect on his earlier comments to the newspaper. It is interesting that at least two stories have been published in respect of this matter, and each contains different words. The article to which I referred in my opening comments this afternoon when I moved the original privilege motion against Hon Tom Stephens appeared under the banner headline "Gag threat move as Bills mount up" and reads as follows -

The State Government put in place a mechanism yesterday to let it gag debate on legislation in the Legislative Council.

The Opposition and Greens (WA) MLC Jim Scott condemned the introduction of the historic motion, which the leader of the Government in the Council, George Cash, warned would be used if the Opposition did not co-operate with the Government to get important legislation through the House before this session ended in about a month.

The motion, which was passed on party lines, is effective for the rest of this session.

The Opposition was also outraged that debate on the gag motion was stopped by the Government after only three Opposition members had the opportunity to speak.

This is a critical part of the article.

Hon Kim Chance: You should be blushing.

The PRESIDENT: Order!

Hon GEORGE CASH: I am trying to show how there are two different stories, and it is a relatively serious matter because Hon Tom Stephens has made certain statements and the House is entitled to find out exactly what happened. Mr President, you will recall that Hon Tom Stephens said, as best I can recall, that he attempted to have the story changed so that there would not be damage done, or words to that effect. I am showing you the changes that occurred between the two articles I have here. The original article continues -

Outside the House, Labor MLC Tom Stephens - who was nearly thrown out of the House by President Clive Griffiths after the motion was passed - accused Mr Griffiths of being partial.

He said Mr Griffiths went around the world promoting the Westminster system of parliamentary democracy but presided over a House which had allowed a guillotine motion to get through.

The Opposition also withdrew pairs - a system by which MPs from both sides of the House agree to have equal numbers absent during a vote - to punish the Government for introducing the gag.

Mr Cash said outside the House on Tuesday the withdrawal of pairs would make important ministerial business during parliamentary hours impossible.

He said the Government wouldn't need the gag if the Opposition stopped wasting time.

There are 16 Bills before the Council but other important legislation - such as the Government's Mabo legislation - is yet to be introduced.

Opposition leader in the Council Graham Edwards denied the Opposition was wasting time, saying it was trying to review Government legislation properly.

That is the first article. I cannot tell you, Mr President, at this stage which article was published first.

The second article is under the banner headline "Cash warns of gag as Bills mount up" and reads -

The State Government put in place a mechanism yesterday to let it gag debate on legislation in the Legislative Council.

The Opposition, Greens (WA) MLC Jim Scott and independent MLC Reg Davies condemned the introduction of the historic motion.

The leader of the Government in the Council, George Cash, warned the gag would be used if the Opposition did not co-operate with the Government to get urgent legislation through the House before this session ended in about a month.

The motion, which was passed on party lines, is effective for the rest of this session.

The non-Government members were outraged that debate on the gag motion was stopped by the Government after only three Opposition members had the opportunity to speak.

Outside the House, Mr Davies said the Council might as well be disbanded because it would not be able to perform its role as a house of review.

Labor MLC Tom Stephens, who was nearly thrown out of the House by President Clive Griffiths after the motion was passed, said outside the House Mr Griffiths ran the risk of being described as partial.

Mr Stephens said Mr Griffiths went around the world promoting the Westminster

system of parliamentary democracy but presided over a House which had allowed a guillotine motion to get through.

The Opposition also withdrew pairs - a system by which MPs from both sides of the House agree to have equal numbers absent during a vote - to punish the Government for introducing the gag.

Mr Cash said outside the House on Tuesday the withdrawal of pairs would make important ministerial business during parliamentary hours impossible.

There are 16 Bills before the Council but other important legislation - such as the Government's Mabo legislation - is yet to be introduced.

Mr President, you will note that there is a difference in the wording in those articles. The first states in particular that Hon Tom Stephens was accusing you of being partial; the second suggests -

Hon Doug Wenn: That is the first edition. There is a little indicator which shows one mark as the first edition and two as the second edition.

Hon GEORGE CASH: I have one with one mark on. I do not have too many marks on this one.

The PRESIDENT: Order! Let us get on with it.

Hon GEORGE CASH: The critical point is that one paragraph in the other article reads -

Outside the House, Labor MLC Tom Stephens - who was nearly thrown out of the House by President Clive Griffiths after the motion was passed - accused Mr Griffiths of being partial.

Those are critical words, because here is a change in the statements attributed to Hon Tom Stephens, as I read the article. I have to say that even though Hon Tom Stephens, I think quite genuinely, was trying to explain to the House what he did, I was not able to follow exactly what he was getting at. In view of the libel that I believe has occurred by the publication of at least one and possibly two articles, a Select Committee of Privilege is needed to consider the matter.

Hon P.R. Lightfoot: It could be criminal libel.

Hon GEORGE CASH: I do not know. I suggest that what we need is a committee of privilege to investigate the various matters surrounding the events described in the House today so it can provide a report. Mr President, it is important that a Select Committee of Privilege be established, because the House is entitled to know whether one of its members used his best endeavours to attempt to mitigate what he obviously later recognised to be a statement that could cause injury to various parties.

Hon A.J.G. MacTiernan: What are we going to do - give him his days back? What is the point of establishing that after you have expelled him?

Hon GEORGE CASH: Hon Tom Stephens for one is entitled to have the full facts placed on the record.

Hon John Halden: That is what we have been trying to do.

Several members interjected.

The PRESIDENT: Order!

Hon John Halden: Do you mean that we have not been doing that?

Hon GEORGE CASH: We have been attempting to but, as I have said, I certainly could not follow what Hon Tom Stephens was saying about the number of times he had spoken to journalists.

Several members interjected.

The PRESIDENT: Order!

Hon GEORGE CASH: Mr President, this is quite a separate issue from the matters that were discussed earlier. This is a request to establish a Select Committee of Privilege to

consider the matters proposed in the motion and to report. If the committee reports that it believes everything is in order and it is able to satisfy the House accordingly, that will be the end of the matter, but at least the House should be given the opportunity of having a select committee to make inquiries and report on the motion I have moved.

Mr President, I really do not see any great need to go on at length. I ask the House to support me. It is an important and integral part of the various motions and matters of privilege about which I have spoken today. Hon Tom Stephens in his comments to the House indicated that he clearly believed he was a party who had something to contribute and that he wanted to contribute. He asked whether he could attend such a committee if he were under suspension. That is a matter on which he can take advice in due course. Quite clearly, he wants this matter sorted out just as the House is entitled to have it sorted out.

**HON J.A. COWDELL** (South West) [9.17 pm]: I oppose the motion, Mr President. The House needs to exercise some caution before proceeding down the road of interrogating the Press.

Hon Doug Wenn: Not intimidating but interrogating?

**Hon J.A. COWDELL**: Interrogating and conducting a witch-hunt among the Press. There is always a difficulty when a Chamber acts as a court or, in this instance, a committee on un-Western Australian activities, in bringing people or the Press before the House or its committees.

Hon B.K. Donaldson: It is a House of Review!

Several members interjected.

The **PRESIDENT**: Order!

**Hon J.A. COWDELL**: Mr President, the Leader of the House did bring to our attention the two articles in question in the early and late editions. What struck me about those articles was not the difference between the two editions or whether Hon Reg Davies or Hon Tom Stephens was quoted first but the relative placement of the articles. We are looking here at articles which appear under two different headings, and we are looking at something in the order of a page 13 story. A mention of the particular offending clause was made on something like the fifth paragraph of a page 13 story in *The West Australian* under a completely different headline. I suggest that we need to view this article in some context and that we should consider the placement and nature of the article. I am always particularly reminded of the spectre that haunts parliamentary Chambers when we go down the track of becoming involved in an investigation and interrogation of the Press. The most notable example of where this can ultimately lead is in Frank Green's book "Servant of the House" which I was reading only the other night. It is worth quoting a couple of sections from Green, who was Clerk of the House of Representatives from 1937 to 1955. He witnessed some of the more memorable conflicts between the Press and the Parliament. From what I can judge the outcome of those conflicts was never in favour of the Legislature. I quote first from Green's epilogue -

The day on which the House of Representatives sent two men to gaol for an alleged breach of parliamentary privilege -

Those two men were a newspaper proprietor and a journalist.

- was my last day in the House, and a few days later I left the service of Parliament for ever.

I had been dedicated to upholding parliamentary democracy against the interests controlling the Executive; now I saw myself as a failure and Parliament as something meaningless, just a 'front' for the dead democracy. As for Parliament House, I saw it as Frank Anstey had finally seen it - 'The House of dead hopes; the habitation of Dead Souls.'

The event that caused Frank Green as Clerk of the House to take this action in resigning from that position was the ultimate outcome of an investigation by the House of Representatives into some reporting by the Press. Green describes the situation -



The Committee disregarded my advice and summoned Fitzpatrick and Browne to appear before them. They came, accompanied by a barrister and a solicitor. The Committee met, and rejected a request by these two men that their legal advisers be allowed to appear with them. However, they went before the Committee as willing witnesses. They were not warned that anything they said might be used against them. The members of the Committee included a Queen's Counsel, Percy Ernest Joske, who asked Fitzpatrick if he published this matter to intimidate Morgan -

Morgan was a member of the House.

- in the course of his public duties, to which Fitzpatrick replied: 'That was our idea.' It is very doubtful whether Fitzpatrick knew the meaning of the word 'intimidate'. Outside his business activities, he appeared to be an ignorant man. He apparently thought he was merely hitting back at a man who was consistently hitting at him from behind parliamentary privilege. To the few questions put to him by Joske, which are published in the Report, he replied: 'Yes.' He gave the impression that he did not fully understand the questions and to save trouble took the easy course of saying 'Yes' and agreeing with everybody. If ever a man under examination by a barrister needed legal representation, that man was Raymond Fitzpatrick. He had asked for legal representation; it had been refused him; so out of his own mouth this man who had come as a willing witness was convicted without being charged of a breach of privilege in attempting to intimidate a Member of Parliament.

The committee then acted. Green continues, following the finding of that committee -

The scene in the House that morning is something I would like to forget. I prefer to think of the House in its great moments in the past when it reflected the mind and the will of the Australian people. Fitzpatrick was brought in, told that he had been found guilty of a serious breach of privilege, and asked if he had anything to say in extenuation. He asked permission for his counsel to speak for him. He was told that he could speak in person, but not through his counsel. He was abject, and faltered this:

'I would like to apologise to the House for what I did. When the article was published in the newspaper I had no idea it was against parliamentary privilege. I have apologised.'

He was then ordered to withdraw, and Browne was brought in . . . When Browne withdrew the Prime Minister then moved motions declaring Fitzpatrick and Browne guilty, and committing them to police custody for three months. These motions were debated for several hours, but it was a disappointing standard of debate.

That is an extreme example, but one vividly in the memory of Frank Green as he devotes one chapter to the road the House of Representatives went down in initiating an investigation and inquiry into a possible breach of privilege by the Press. We in Western Australia have had unedifying examples in recent times of people being brought before committees and the resultant publicity has not reflected favourably on Parliament; most recently the Ellett example and in previous times the Drayton example. We have some straightforward Western Australian examples of what to do when confronted with various media reports.

The instance to which I draw members' attention comes from "The House on the Hill", of which members would be aware. Over the years the issues of privilege most recently raised in the Western Australian Parliament have concerned material published in the Press and have been considered to have infringed the privilege of the House or, more frequently, individual members. There have been many examples. The example used by Okely and Black is the request by Marinus Canning, the member for East Perth in 1892. The House was to take action against the Press for a particular report. The Attorney General of the day, Septimus Burt, had some wise advice then, and it is probably wise advice now. He stated -

... we at once convict the paper of saying what is not true. But papers have to say a great number of things in the course of a very short time, and we cannot expect them to say everything that is true, and I think we shall have to get used to this sort of thing ... Certainly, saying untruths. The world goes around just the same ... When a public man says anything, there is always someone to hold him up to ridicule and contempt ... I hope I may be able to do all I can on all occasions to support the dignity of the House, and the liberty and privilege of each member of it, still I really do not think there is sufficient ground here to call for the step which has been asked for in the motion before us.

That was a privilege action against the Press. The result of such cases is summarised shortly thereafter in "The House on the Hill" as follows -

Whenever one of the Houses did resolve to find a newspaper printer and publisher guilty of contempt under section 8 of the Parliamentary Privileges Act, the usual practice was to take no further action. Thus in 1911, in explanation of an article in which the term a 'wild scene' was used in connection with the suspension of four Members during one parliamentary sitting, the proprietors of the *Daily News* offered an apology but still contended that 'no better, more truthful, no more concise description could have been given to such occurrences'. Notwithstanding the provocation, the Premier persuaded his colleagues that no 'good purpose would be served' or 'the dignity of Parliament' enhanced by taking any further action. Similarly, in 1922 an episode arose following an article in the *West Australian* the Legislative Assembly accepted a suggestion from the then Leader of the Opposition that the House 'might be content to declare the accused guilty of contempt without awarding punishment'.

These are normal outcomes. We have seen in these examples deliberations which were not edifying in the public mind, and invariably led to no greater enhancement of the standing of the Parliament in the community. Obviously, we have these previous Western Australian examples, and I have already alluded to some more recent ones. Similar situations have arisen in the Commonwealth when this course has been followed by that Legislature. This is not a productive road to take. I now refer to the Gordon Reid and Martyn Forrest publication titled *Australia's Commonwealth Parliament 1901-1988*. Many members will remember the amount of time our former Governor spent on this volume both before and when he became the Vice Regal representative. Its summary of parliamentary dealings with the Press as a result of dissatisfaction with press coverage is analogous to the situation of this House. I quote two paragraphs. Appendix 6, which lists the conflicts, is referred to as follows -

... demonstrates that most of the conflict about parliamentary privilege in both houses of the Federal Parliament since 1901 has been generated by members reacting to allegations, or to assertions, made in the print media. Surprisingly, other components of the media - radio and television - have not stirred controversy in the same way.

Recurrent parliamentary concern about the behaviour of the press has rarely yielded a decisive result. The earliest allegation of a breach of privilege involved an article in the *Age* on 4 August 1905, but no action was taken; neither house resolved positively that its privileges had been breached until 1920 - in the Mahon case - which resulted in the extreme action of expulsion from membership of the House of Representatives. A majority of press privilege cases comprised little more than retaliatory outbursts by MPs affronted by unfavourable reflections in print upon Parliament, or upon themselves. Even in cases motivated by plain pique, a debate in Parliament was considered retribution enough for the allegedly errant writers, editors, publishers and printers: motions proposing to declare contempt or a breach of privilege were frequently withdrawn, occasionally following an apology.

This is a summary of the situation which developed. The appendix in this volume refers to the particular conflicts between both the House of Representatives and the Senate and the Press. Appendix 6.1 contains a table which covers about seven pages - I will not read

it out. The listing indicates that in episodes of this nature the result was of the order of Parliament, nil; the Press, 27. That certainly would not encourage us to pursue this course of action.

The DEPUTY PRESIDENT: Order! I draw Hon Tom Butler's attention to the permitted limited use of the telephone in this Chamber. I would suggest that if he wants to conduct a telephone conversation which is audible to other people he conduct his conversation outside the House.

Hon J.A. COWDELL: I now refer to an example of the United Kingdom experience. I was going to give the House the example of the outrageous attack by *The Daily Worker* which was termed "gross libel" by Mr Speaker in 1938. The outcome of this episode was that no further action was taken. I have decided not to give the House that brilliant example, but to refer to a more recent example of action taken by the House of Commons against the Press. An article which appeared in *The House of Commons in the Twentieth Century* described this episode as follows -

Similar resentment was felt by members in 1956 when a number of privilege complaints arose from press and radio criticism of the decision to issue supplementary petrol coupons to M.P.s when petrol rationing was introduced in the aftermath of the Suez operations. The principal offender was the *Sunday Express* which, in a critical editorial, remarked that petrol rationing would pass M.P.s by in a time of general hardship. Members, it was said, had not protested about their special treatment and the public should make it plain that they would not tolerate politicians who were more interested in privileges for themselves than in fair shares for all. The Committee of Privileges thought that these views were intended to hold members up to public obloquy and to charge them with contemptible conduct and self-interest. The editor, Mr. John Junor, had, they concluded, been guilty of a serious contempt in reflecting on all members of the house. Mr. Junor was ordered to attend at the Bar, where he apologised for his conduct in diminishing the respect due to the House and weakening its authority.

It would not be going too far to say that the Junor case did more to bring the House's privilege jurisdiction into disrepute than any other exercise in the 20th century.

These are not happy precedents for us to follow. Given the Western Australian, Australian and British examples, surely any such attempt to bring the Press before a committee of this House, or the House itself, would merely be an embarrassment to us and the President. The President has, to my knowledge, always held an opposite opinion to the one attributed to him within the newspaper article: The President has probably been instrumental in this House avoiding the guillotine motion and retaining its open speaking rights for as long as it has; his reputation in that regard is well known. This is not likely to be greatly injured, as I said before, by the fifth paragraph in an article on page 13 of *The West Australian*.

Hon Reg Davies: Which one?

Hon J.A. COWDELL: It does not matter! I presume the article did not make its way too much further forward in the paper beyond page 13 in the later edition. I am not sure whether it was the one which quoted the honourable member first, or the one which neglected to quote him.

Hon John Halden: The member does know.

Hon J.A. COWDELL: I will conclude by reiterating my concern about setting up a committee and calling representatives of *The West Australian* before that committee to answer for their coverage. I caution going down that track because of the likely outcome, given the previous experiences with respect to press coverage of the Chamber. It is consuming the time and attention of this Chamber and, given historical experience, the outcome is not likely to warrant the effort put in. Therefore, I oppose the motion before us and hope other members will also carefully consider the situation before they embark on the appointment of a select committee.

Debate adjourned, on motion by Hon John Halden.

**MOTION - SELECT COMMITTEE ON WESTERN AUSTRALIAN  
POLICE SERVICE, APPOINTMENT**

Debate resumed from 26 October.

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [9.42 pm]: The Government supports the motion moved by Hon Reg Davies some time ago. However, support will be qualified by an amendment I intend to move at a later stage in the debate. Hon Peter Foss also has an amendment on the Notice Paper which he intends to move at a later stage.

There is little need for me to spend much time on this motion because members will be aware that the House agreed to such a motion in November 1992 when a select committee comprising three persons was established for the purposes set out in the terms of reference of the motion. I said at the time that I believed there was a need for an inquiry into the Western Australian Police Force. As I recall, I suggested that the inquiry should be seen to be a positive one whereby the opportunity was afforded both police officers and members of the public to comment in a way that might see recommendations from the select committee to improve the current state of the Police Force.

It would be unwise for anyone to suggest that any inquiry into the Police Force should be interpreted as a vote of no confidence in the Police Force. That is certainly not my intention in supporting the motion. There are many hardworking police officers in Western Australia.

[Quorum formed.]

Hon Reg Davies: It is certainly not my argument.

Hon GEORGE CASH: I accept that. I am quite sure I made that point when I last spoke in November 1992 on this same motion. At the time, Hon Reg Davies may have also confirmed his position that we should see the need for scrutiny in the Western Australian Police Force in a positive way so that we could derive positive results from such an inquiry. As this is a motion for the establishment of a select committee I do not believe that there is great value in my setting out chapter and verse the changes I think should occur within the Police Force in Western Australia. Quite clearly an opportunity will be afforded me, if I so desire, to appear before the committee to make my comments in due course.

Another reason I do not believe it wise to give chapter and verse my views on the Police Force is that I believe the committee should be unfettered in its inquiry and that the terms of reference are sufficiently wide for the committee to do a comprehensive job on the matters raised. In some regard I see it as unfair to impose my views in an unreasonable way on the committee. I say that because you, Mr Deputy President (Hon Barry House), will understand that for seven years, from February 1986 until February 1993, I had responsibility for police matters on behalf of the now Government. A number of matters are not covered by the motion moved by Hon Reg Davies; one in particular involves the use of listening and tracking devices and telephone interception equipment in Western Australia. It is fair to say that there is -

Hon A.J.G. MacTiernan: Very topical.

Hon GEORGE CASH: As Hon Alannah MacTiernan said, it is topical. Although she may think it topical right now, I guess in relation to the fact that I was Opposition spokesman for police for a number of years, it has been topical for a very long time. I remind Hon Alannah MacTiernan, who may not be aware of the circumstances, that in December 1988, when I was a member of the Legislative Assembly, I made a comment during a debate that I believed phone tapping was occurring in Western Australia. That was challenged by the then Government to the point that I was paraded before a Select Committee of Privilege which had a majority of Labor members, and I was invited to advise the committee of my knowledge.

Hon Tom Helm: Did you get the gag or guillotine?

Hon GEORGE CASH: I did in the end. Bob Pearce was handling the committee at the

time and he was not one to bother with a lot of debate on various issues. During that privilege committee Mr Pearce, as chairman, sat at one end of the table, members sat on either side and I sat at the other end. I said I wanted to retain counsel so that I could be represented in a proper manner before that committee. I also said I intended to call certain witnesses.

Hon Tom Helm: Is it the same committee you are to give Hon Tom Stephens the benefit of?

Hon GEORGE CASH: No, that committee was established, conducted its deliberations and reported to the Legislative Assembly in 1988. It was a long time ago and this will certainly not be the same committee.

Hon Tom Helm: A little different from what happened to Hon Tom Stephens tonight.

Hon GEORGE CASH: Hon Tom Stephens will not appear before a privilege committee. He was judged by a motion of this House to be in contempt of this House. Hon Tom Stephens, the subject of the motion, agreed with the substance of the motion. More than that, he voted with other members of the House on the motion. We are talking about two different things.

I return to the select committee I was put before in 1988. I said at the time that I believed there was evidence of telephone tapping and in order to present that to the committee I said, firstly, that I wanted to retain counsel and, secondly, that I wanted to call 10 witnesses. Some of the names of those witnesses that spring to mind are Brian Burke, his brother Terry Burke, Robert Smith, and Craig Coulson. I would need to refer to my records to provide the names of the other witnesses I wished to call. The chairman of the select committee, Bob Pearce, said that I should not bother to ask for witnesses to be called because the committee certainly did not intend to allow that. I said I wanted to retain counsel and Mr Pearce was not happy to do that. I said my counsel would be available that following afternoon, and I remember Bob Pearce telling me in a quite jovial way - I believe he thought the whole thing was a joke anyway - that I must understand that the committee would report to the House at 2.30 or 3.30 the following afternoon and, therefore, how could he allow me to be represented by counsel when the House would already have made its decision by that stage of the game. I got the message that I would not have too many wins in that committee. Members may be interested to know that the select committee reported along the lines recommended by the chairman, although there was at least one dissenting report, and perhaps two. The Legislative Assembly considered the recommendation of the privilege committee and censured me. I accepted that as part of political life.

Hon Tom Helm: Did it suspend you?

Hon GEORGE CASH: No. We were running up to the 1989 election and because I had raised the question of telephone interception in Western Australia, I believe some members of the then Government were very keen to find out what I knew about it. I had had responsibility for police matters since 1986, and one way of finding out whether I was about to provide information about some of their concerns was to put me before the committee to try to squeeze out the information. I was happy to provide the information but I wanted to call witnesses and was not allowed to. An interesting point is that Robert Smith, one of the people I wanted to call as a witness, was a few years later convicted in a court in Perth of the very offence of telephone tapping.

Hon Tom Helm: Were you aware of that at the time?

Hon GEORGE CASH: No. I wanted to call him as a witness because I believed he could provide certain information. However, I was not aware of the details of the offences of which he was later convicted. I had received certain advice that he should be called and would be able to provide information to the committee, as would the other witnesses I suggested be called. Members will recall the references to BB and the blue file, which also featured Robert Smith at that stage. Perhaps I am straying a little from the motion before the House, but I wanted to tell Hon Tom Helm that I know what it is like to go before a privilege committee because I have been before one.

Hon Reg Davies: So have I on telephone tapping.

Hon GEORGE CASH: Yes, I was a member of that committee to which Hon Reg Davies refers, and I supported the establishment of it. Although I am not at liberty to advise the House what occurred during the taking of evidence at that committee or the deliberations of it, suffice to say that it certainly heightened my concern about the incidence of telephone interception in Perth. No evidence was provided to the committee to establish that Hon Reg Davies' telephone was being tapped at the time, even though he genuinely believed that to be the case, and the committee was unable to substantiate it. It is interesting that when Hon Reg Davies spoke on this motion a couple of weeks ago he commented in passing that he still had a feeling that he might be the subject of this sort of surveillance, whether by telephone tapping or listening device.

Hon Reg Davies: It cost me \$420 a week ago to have my office checked out. It is a fairly expensive business.

Hon GEORGE CASH: That confirms the point I make. The reason I digressed a little to talk about the privilege committee was to introduce the subject of an amendment I want to move tonight. It will extend the terms of reference of the committee to include an opportunity for it to consider and report on any incidence of unlawful, improper or unauthorised use of listening devices, visual surveillance devices, tracking devices or telephone interception by members of the Police Force and, further, report on the adequacy of the protocols observed in the installation, use and retrieval of such devices, and the collection, dissemination, use and storage of material gained from the installation or use of such devices. The committee may also consider whether the funding provided to the police internal affairs unit has been expended in the lawful execution of the unit's responsibility and, further, determine the amount of funds expended on the acquisition of equipment used or able to be used as a listening device, visual surveillance device, tracking device or equipment associated with telephone interception, and the likelihood of breaches of individual's privacy, consequent on the unlawful, improper or unauthorised use of such equipment. Again, there is no great need for me to explain the reason for the inclusion of those paragraphs in the committee's terms of reference. The recent events in Perth would indicate the justification for the extension of the terms of reference along the lines I am suggesting.

Term of reference (4) states that the committee should consider any further matter relating to the police service arising from the inquiry. That could be deemed to be a very wide and far reaching term of reference. It could cause the committee to sit for a considerable period of time. The committee will have to determine and interpret its understanding and its intentions in respect of that term of reference. If the committee believes it is too far reaching - I have given it a fair amount of consideration and in its present form it could be too far reaching - it may wish to return to the House, in due course, for a further clarification and definition of the meaning of that term of reference. However, the members who will be appointed to the committee will be able to consider that matter in due course.

I draw the attention of the House to term of reference (3) which refers to the internal affairs investigations and I foreshadow an amendment to delete the word "investigations" and replace it with the word "unit". I indicate to members that there is another amendment listed in the name of Hon Peter Foss on the Supplementary Notice Paper and numbered new term of reference (4). Hon Peter Foss will move that amendment shortly. Members will note that the preamble to the terms of reference states -

That a Select Committee of three members, any two of whom shall constitute a quorum, be appointed to make full and careful inquiry into and report on the Western Australian Police Service and its operation and administration and in particular, but without limiting the generality of the inquiry to inquire into and report upon -

#### *Amendments to Motion*

Hon GEORGE CASH: It then lists those issues that will be inquired into. The

Government believes that the committee should comprise five members, any three of whom shall constitute a quorum. Therefore, I move -

To amend the terms of reference to provide for a membership of five instead of three members, any three of whom shall constitute a quorum.

**HON REG DAVIES** (North Metropolitan) [10.08 pm]: I oppose the amendment. The standing orders of this House direct that a select committee of the House shall constitute three members, unless otherwise ordered by the Council. Last year I thought it would be a good idea to have four members on the committee. However, the then Opposition, now the Government, amended that to three members. There does not appear to be any consistency.

My major concern is that the whole aim and role of committees of the Parliament is to scrutinise the Government and Government agencies and departments. Every single committee that has been established by this Parliament has a Government majority and a Government chairman. I believe that is inconsistent with the role of committees. It is inconsistent with the recommendations of the Royal Commission into Commercial Activities of Government and Other Matters and it really is very difficult for Government members to properly scrutinise the Government. It could also be seen as an indirect way of stopping me from being the chairman of the committee. The convention in this House has always been that the member who brings forward a committee, who has an interest or knowledge in a particular area or, in some cases, who is prepared to take the risk and stick out his neck on a particular issue is also appointed as chairman of that committee unless that member decides otherwise. I may be wrong in thinking that this could be one of the reasons for this amendment. However, I will be a little more generous and suggest that it may be to allow more members to participate because of the importance of this committee - and it is an important committee. It has a very important function to carry out. I would hate to see it become another high profile, politically driven, media run committee. That would defeat its purpose. We have seen what has happened when that has occurred.

If members opposite support this motion for a five member instead of a conventional three member committee, I would ask them to consider the make-up of that committee at a later stage. If it is the will of the House to choose to have a five member select committee, I would then suggest that it be truly representative of the Parliament and of the will of the people of this State in electing their members, and that a Liberal Party member, a National Party member, a Labor Party member, a Greens (WA) member and an Independent member serve on that committee. That would show true fairness and impartiality and also that the Government does not want absolute control of every aspect of running this State. If the amendment is designed to curtail my activities - and some very unkind people have said that it could well be designed to ensure -

Hon B.K. Donaldson: Could I ask Hon Reg Davies a question?

Hon Doug Wenn: Keep quiet.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order!

Hon REG DAVIES: Questions are reserved for Ministers and Parliamentary Secretaries and those in charge of the Bill at question time.

Hon B.K. Donaldson: You are making a false statement and I am a bit concerned for you.

Hon Doug Wenn: Don't be.

Hon REG DAVIES: I thank the member for his concern. Some unkind souls have suggested that my being the chairman of this committee would perhaps ensure that I had some sort of a profile within the community and that may benefit my chances, should the inevitable occur and there be a by-election in the North Metropolitan Region -

Hon A.J.G. MacTiernan: You would have to wake up a few judges first.

Hon REG DAVIES: It has been suggested that my not being on the committee or my not

chairing that committee would then lessen my profile. Other people have said that perhaps I am not suitable to be on the committee or to chair it because I have been a critic of the Police Force. I do not think being a critic of the Police Force would warrant my exclusion from the committee or from chairing it.

It has also been said that I should be excluded because my response on the radio to the question of whether, because I am such a critic of the Police Force, I want to see change, was something along the lines of, "Well, I really do not care whether I am the chairman or whether I am a member of the committee, providing the committee gets established and carries out its task." That is my major aim. I would like the committee to remain within the convention of three members. If it is a five member select committee, I ask members to consider what I have said about the membership and the bipartisanship of that membership, with representatives from every party and group within the Chamber. I oppose the amendment.

**HON A.J.G. MacTIERNAN** (East Metropolitan) [10.16 pm]: I oppose the amendment.

Hon George Cash: Have you spoken to the people handling the motion on your side of the House?

Hon Doug Wenn: Ignore him.

Hon A.J.G. MacTIERNAN: We do not get much notice of how the business of the House will be handled.

Hon Doug Wenn interjected.

The DEPUTY PRESIDENT: Order! Hon Alannah MacTiernan will address the Chair.

Hon A.J.G. MacTIERNAN: My first concern is one of practicality. It is difficult to coordinate members to meet. Even committees that have three members find it very difficult with a very heavy workload to allocate times when three people, let alone five, can be organised to meet. The sorts of structural impediments that would be imposed by making this a five member committee, rather than three, of itself, should mitigate against this amendment.

I refer to the very important points raised by Hon Reg Davies; in particular, about the role of select committees as part of the review function of this House. There should be a separation of that review function from domination by the Executive. It would be inappropriate to have a body of five members if the reason for expanding the membership from three to five were in any way attributable to a desire to have the committee dominated by the Government parties. Under the proposed structure of three, it could be seen that the membership would comprise one Government member, one Opposition member and one member from the cross benches. In that way it would not be a committee that was dominated by groups answerable to the Executive. For those two reasons - firstly, the practical problem in coordinating the five members' time to meet, particularly in view of the heavy workload that is involved in a committee like this and, secondly, the important principle that these committees should not be dominated by the Executive - I oppose the amendment.

Amendment put and passed.

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [10.20 pm]: I move -

Line 1 - To delete the word "Investigations" and substitute the word "Unit".

Amendment put and passed.

Hon GEORGE CASH: I move -

To insert the following new paragraphs -

- (3A) Whether any incidences exist of unlawful, improper or unauthorised use of listening devices, visual surveillance devices, tracking devices or telephone interception by members of the



Police Service and further report on the adequacy of the protocols observed in the installation, use and retrieval of such devices and the collection, dissemination, use and storage of material gained from the installation or use of such devices.

- (3B) Whether the funding provided to the Internal Affairs Unit has been expended in the lawful execution of the units responsibility and further determine the amount of funds expended on the acquisition of equipment used or able to be used as a listening device, visual surveillance device, tracking device or equipment associated with telephone interception and the likelihood of breaches of individuals' privacy consequent on the unlawful, improper or unauthorised use of such equipment.

**HON REG DAVIES** (North Metropolitan) [10.22 pm]: I support these new paragraphs because they strengthen the motion before the House. I should add that similar paragraphs were in the original motion that I moved last year, and once again the current Government saw fit to amend that motion.

Hon Peter Foss: You did.

**HON REG DAVIES**: I apologise. After consulting with Opposition, now Government, members, it was in my best interests at the time to agree to take those paragraphs out of the original motion, so I am happy to see them back in there. However, I still believe that these areas would have been covered under paragraph (4) of the original motion; namely, "Any further matter relating to the Police Service arising from the inquiry."

Amendment put and passed.

*Motion, as Amended*

**HON PETER FOSS** (East Metropolitan - Minister for Health) [10.24 pm]: I support the motion. I must say that I had more sympathy for the speech given by Hon Reg Davies in support of the motion on this occasion than I had for the speech given by him on the first occasion. On the first occasion, Hon Reg Davies concentrated principally on a number of quite dramatic instances of what were seen to be abuse of position by the police.

Hon Reg Davies: I came here then as an Independent, without support, and I had to use those tactics to gain support.

Hon PETER FOSS: Yes, but at that stage I urged the member that, as a Parliament, we had to address why it had happened and not what had happened. It was at my suggestion that paragraph (1) deals with the relationship between Government, Parliament and the police service, because I believe that is essential. For too long, Parliament has not dealt with the problem and for too long the relationship between the Parliament, the Government and the police service has not been clear. My view has changed since I suggested paragraph (1) to Hon Reg Davies, because subparagraphs (a), (b) and (d) refer to independence in operational matters; governmental input into and ministerial responsibility for police matters; and some form of operational supervision and check, free of political input. That last subparagraph probably involves a police board. The more I think about this, the more I believe there is some room for operational responsibility for Government. The police must have some independence in operational matters. The police must not be subject to interference whereby the Government says, "You will prosecute X, or you will not prosecute X." It is obviously wrong that a Government should have any such power. It is similar to the role of the Attorney General in Cabinet, where the Attorney General is one of the few people who can act differently from the remainder of Cabinet, but in a limited way.

The Burt Commission on Accountability made it clear that in order for there to be ministerial responsibility, a Minister must be capable of being responsible. For that reason, we have now put in all of our Acts provisions that the Minister may direct. It is because the Minister has the ultimate power to direct that the Minister has the ultimate responsibility. There are many areas for which the Minister for Police must take

responsibility. How often did we hear in this House the former Minister for Police say, "That is an operational matter; I have no responsibility"? How can we have a police service responsible to the people and to the Parliament if we cannot say to the Minister for Police, "Why don't you do something about it?" If the Minister for Police can say, "It is an operational matter and I cannot do anything about it", where is the responsibility? Where do the people eventually have an opportunity to say, "You are responsible"?

Hon Kim Chance: Are you saying that in Cabinet at the moment?

Hon PETER FOSS: I am not saying that in any way as a criticism of Bob Wiese. I am saying that this has become the accepted basis upon which our Police Force operates. It is regarded now as a matter for criticism if a Minister for Police says to a Commissioner of Police, "You will do this." Recently in the Press there was some criticism of the Minister for Police for seeking to tell the Commissioner of Police what to do.

Hon Reg Davies: He still had his "L" plate on, according to the union!

Hon PETER FOSS: That is true. In the end, it is our Police Force. We in the Parliament must have a Minister whom we can hold responsible, and the Minister must be able to direct the Police Force. I agree that he must not be able to direct it in his prosecutorial power, but in regard to everything else, he must be able to say, "This is the way it will be done."

Hon Reg Davies: The answer may be to have a police board.

Hon PETER FOSS: True. That is what I originally had in the motion, and that would go a long way because it would at least ensure that there was some sort of buffer in between. Like it or not, in the end the only way in which we can have a responsible Police Force is by having a responsible Minister in a responsible Parliament. I do not see any alternative to that. How we go about ensuring that the responsibilities of the Minister for Police do not become political interference is the interesting part. That is perhaps where a police board could fit in. If a police board had the capacity to say that the directions which the police were getting from the Minister were not legitimate ministerial administrative directions but were blatant political interference, that might be the way to do it.

We must have a Minister who can act. If he cannot act, how can he be responsible? On the other hand, we must have a mechanism to make certain that his action is not purely political; that he does not use that massive power in a political fashion. It is even worse to have the massive power in the police who have no responsibility to anybody. As a Parliament, we have allowed that situation to occur in Western Australia. I do not know how many years that goes back. I do not know when a Minister for Police had the backing of everybody to be able to say to the Commissioner of Police, "That is the way it is. That is the way it will be done."

Hon Reg Davies: It is ironic that he must come to Parliament and be responsible for all those actions.

Hon PETER FOSS: That is, he must take all the responsibility but he cannot get in there and tell people what to do. It is not logical and it will not work. The situation has grown up over many years, and the Commissioner of Police has become almost an independent authority. That cannot continue. There must be some form of supervision. One of the useful aspects of the select committee is that it will say how to get the independence from political interference, but to have responsibility to the Minister and to the Parliament. That will be the real challenge faced by the select committee because it must happen. The people of Western Australia must take back control of the Police Force, and must say what it will do. To place the blame for what has happened, one need look no further than to this Parliament. That is what I said last time.

It is very encouraging on this occasion to see the emphasis by Hon Reg Davies on starting where the buck should stop - and that is here; and working away through the system to do that. I hope that he does not put too much emphasis on finding examples other than to the extent it is necessary to illustrate the point. I will send him a few cases to look at. However, it is important that the committee concentrate on the philosophical administrative issues and not on the individual details. The committee will not be able to

go past that. If the matter is opened up too wide the committee will not be able to move because each member of Parliament has received letters complaining about police behaviour - not just anonymous letters, but letters from people that we know. Few members have not heard about that type of complaint.

Hon Reg Davies: I thought they all contacted me.

Hon PETER FOSS: No, they do not. I will pass my correspondence to the member as soon as this motion is passed. The important first point is that the Parliament must take responsibility for any situation that currently exists. I am very pleased that the Parliament is taking this action to accept its responsibility. The situation does not go back only 10 years. It goes back 20 or 30 years, maybe more. The situation has grown up where the Parliament has abdicated its responsibility for police. We cannot complain about the police not doing what we want when we have not told them what we want them to do.

Hon Reg Davies: At the same time, they do not like advice from parliamentarians. They become fairly irate if we dare question them.

Hon PETER FOSS: True, but if we do not do anything about that situation we have only ourselves to blame.

Hon Reg Davies interjected.

Hon PETER FOSS: I am pleased to see that the police seem to be giving some support to the ideas being put forward.

*Further Amendments to Motion*

Hon PETER FOSS: I move -

To insert the following new paragraph -

- (3C) Whether the police have appropriate methods for dealing with young people.

I realise that the amendment could be covered by part (4) of the motion, but I wish to highlight this aspect because it is important. Hon Cheryl Davenport would agree about the importance of this area. The way police deal with young people is a major area of complaint against the police. There have been instances where there has been a definite breakdown in the relationship between police and young people. I had some indications of that from serving on the Legislation Committee; we had instances of where it was clear there was a total breakdown of communication between the two. Once a breakdown in communication occurs it is difficult for them to function. The other example we had with the Legislation Committee was on a visit the committee made to New Zealand related to the Serious and Repeat Offenders Act. For a long time in New Zealand a youth bureau has operated within the Police Force. The youth bureau is always involved when police are dealing with young people in that country. The young police officers there have no problem with the system at all. They know how to deal with young people. They have cut down on situations such as we experienced in Fremantle with the Dethridge case, because they have grown up with how to deal with young people.

It is similar to the situation here with sobering-up centres. I recently visited Halls Creek where there is such a centre. The police and the Aboriginal population think it is the best thing since sliced bread because the police dealing with drunken people no longer need to arrest them. Instead of locking people in the cells, they can take them to the centre for assistance, and the whole attitude between police and Aborigines in that town has changed. Gone is the confrontation; gone is the difficulty of running around and throwing people in the back of the paddy wagon, then throwing them into the cells. We are aware of the problems that were created in that circumstance. The police now feel they are doing something positive. They feel good about it because they are taking drunk people to a place where they will get help. The reaction of the Aboriginal people is totally different. The police-Aborigine relationship in Halls Creek has improved enormously as a result.

Once that improvement occurs in society the police can be involved in doing other things, such as trying to change the drinking habits in the town and the hours during which the bottle shop is open. That one small move, changing the approach the police have to an offence, has changed the attitudes between the police and the community. People were locked into a situation that they could not get out of. The police were continually put into a position of having to lock up Aborigines. The police felt the resentment from the Aborigines, and reacted to that. It was a vicious circle of action and reaction between the police and the Aborigines. Breaking that cycle offered an opportunity to improve the relationship - to the benefit of the police and the Aboriginal population.

New Zealand has achieved a similar situation with its youth bureau within the Police Force. It has broken the vicious circle of action and reaction between youth and the police. People can justify their actions by saying, "Look what the police did to me!" That was the Dethridge experience. "Look what that young person did to me!"; and I am sure there was some pretty solid lip given. However, the young person could say, "Look what the policeman did to me!"

It is like what occurs in Ireland. One can always prove that somebody shot one's neighbour, but there is always another neighbour the day before who got shot. There is always an excuse. It is like a feud. The origin of the feud goes so far back in history that people can always justify their own behaviour. That is the situation which to some extent is developing with youth and police in Western Australia.

Hon Reg Davies: When does it all start - having police officers in the schools?

Hon PETER FOSS: That is a very positive step.

Hon Reg Davies: Or does it start at the academy?

Hon PETER FOSS: I do not know enough about it. That is one of the reasons that I am asking members of this Chamber.

Hon Cheryl Davenport: Recruitment practice is part of the problem.

Hon PETER FOSS: The member could be right. I have no idea. It is not my area. All I know is that that is one area of problem. I have seen one place in which they appear to have tackled it, which was in New Zealand. In my own area of health, I have seen the result of introducing sobering-up centres. Without knowing what the solution is, I wonder whether there is a solution. I posed a possibility today but I do not know whether it will work. I am not in a position to offer solutions. All I know is that our youth are very important. If we have to make changes, that is where we must start.

I am very concerned about the young people in our society. It is important that we pay attention to them. I believe it is sufficiently important to ask the House to consider this point. I do not know what the answers are. I am sure that many people will have proper suggestions as to what we should be doing. It may well be that the Police Force already has those measures in place or they are being put in place. I am not saying that they are not already there. I would like to know whether it is sufficient. It is a sufficiently important question to be specifically noted in the terms of reference of the committee. I am very hopeful that it can come up with something useful. Often select committees find that something is being done but it is just not being publicised.

Hon Cheryl Davenport: Or else it is not getting enough resources given to it.

Hon PETER FOSS: That is often the case. Select committees have the capacity to bring the debate out in public and have informed debate. The problem is that so much of the debate in our society is uninformed. Somebody makes a complaint, so everybody accepts that all the police are like that or nothing is being done. Often something is being done, but it needs publicity and assistance to get it working properly. The committee may discover that the police have appropriate methods but they need some help to get them working properly. I am concerned that the Dethridge case occurred. I am worried that we may not be doing enough in relation to police dealing with young people. It is important that, if we are doing it, we publicise it; if we are not doing it, we look to see what the solution is. Accordingly, I ask the House to support the amendment.

**HON REG DAVIES** (North Metropolitan) [10.45 pm]: I congratulate Hon Peter Foss for including that reference in the motion. It is a very positive move. Although it will give the committee a great deal of extra work, it will be worth while. I am pleased that I amended the motion to allow 18 months for the committee to do its work. I support the amendment.

Amendment put and passed.

**HON A.J.G. MacTIERNAN** (East Metropolitan) [10.47 pm]: I move -

To insert the following new paragraph -

(3D) To consider the appropriateness of police recruitment, training and promotional procedures and structures.

I agree with the comments made by Hon Peter Foss. It is time that we dealt with the proper limits of the characterisation of matters as operational and the concomitant expansion of the responsibility of the Police Minister. As Hon Peter Foss said, for far too long any responsibility to answer to public concern has been met with a statement, "This is an operational matter and not capable of further challenge or review." That is clearly unsatisfactory. It does not sit well with a parliamentary democracy. It is not an issue which has arisen in the life of any one Government, but has been identified tonight as a practice that has grown up over time - a practice that must be speedily brought to an end.

My amendment concerns a broad brush issue. It is one of very fundamental concern. I believe that many of the concerns and problems that have arisen over time about police performance may be attributed to recruitment procedures, training levels and promotional structures. I believe that any review of police structures, of police powers, and of the way in which police should be made accountable, and any analysis of how we can make the Police Force more efficient, more responsible or more answerable to the public generally must focus very clearly on issues of recruitment, training and promotion. Although theoretically this could fall within paragraph (4) of the original motion of Hon Reg Davies, it is such an important issue that it, of all the items that are being added to paragraph (3), is the one that must be given a very clear focus. We would be very remiss if we did not single out these issues in the text expressly to ensure that these matters were appropriately dealt with.

**HON REG DAVIES** (North Metropolitan) [10.50 pm]: I would be concerned if we kept getting inclusions to the terms of reference because a very deliberate effort was made to cut down the original six page terms of reference in my original motion. There was a lot of criticism that it was almost like a royal commission terms of reference. Therefore, this has been very general. The amendment is a very important amendment. However, I believe it is fairly well covered in the first paragraph which says "careful inquiry into and report on the Western Australian Police Service and its operations and administration" and it goes on to refer to various areas about which people have concerns. I accept the member's point that the committee should be singling out the recruitment, training and promotional procedures and structure within the Police Force because if we have a problem in the Police Force, the problem could very well relate to those areas. If we could find the solutions there perhaps we would have a good, strong Police Force. I do not encourage any further inclusions of this nature and I support the amendment.

Amendment put and passed.

*Motion, as Further Amended, Resumed*

Debate adjourned, on motion by Hon John Halden.

## PORTS (FUNCTIONS) BILL

### *Second Reading*

Debate resumed from 14 September.

**HON JOHN HALDEN** (South Metropolitan) [10.52 pm]: I preface my remarks on this

Bill by making some remarks that may not go to the heart of the Bill but which need to be said. I know that I am often critical of the Minister for Transport in relation to other matters. However, in relation to this matter and another Bill on the Notice Paper, his preparedness to be supportive of the Opposition in seeking information and his preparedness to discuss this matter is without exception. I guess also that people outside Parliament do not understand that often legislation goes through it with cooperation and bipartisan support.

As the Minister said in his second reading speech, this Bill will affect the port authorities of Albany, Bunbury, Dampier, Esperance, Fremantle, Geraldton and Port Hedland. I, or my office, have spoken to the port authorities. I presume that the Minister is aware of that. The discussions with them have been open and basically the authorities have told me that they likewise support this Bill. The only concern - it is not a great concern - is the procedure for the appointment of chief executive officers. The port authorities are of the view the boards are responsible for the decisions and the chief executive officer is responsible for carrying out those decisions and the day to day management of those authorities. They believe the Bill should be amended now or at some subsequent stage for the appointment of the CEO to be done by the board and not the Public Service as is currently the case. When one thinks about that, it is not such an outrageous proposition. The boards have a knowledge of where they want to go, and the particular peculiarities and uniqueness of the ports as regional ports and they should be able to appoint the chief executive officer of the port that they are responsible for. There may be a difficulty with amending the legislation in terms of Public Service appointments and the requirements of the Public Service Board.

I also want to comment on a couple of points that the Minister made in his second reading speech. He said -

The effects of this Bill . . . are to more clearly define and expand powers for the provision of services and facilities in order to provide an enhanced ability to operate in a commercial and businesslike manner;

The Minister should be careful in regard to that matter. Of course, these commercial and business activities are related to the port itself. I can imagine - perhaps I am drawing a long bow - an entrepreneur deciding to carry out activities that are not directly related to the operation of a port authority but which are, at the end of the day, of benefit to the port authority through financial profit but are not within the traditional concept of what a port authority is for. The next point the Minister made is -

include in this power a clear ability for port authorities to enter into business arrangements;

I have the same concerns there that that be specific and be related to the activities of the port. The third point made by the Minister was -

allow port authorities to provide pilotage services either in their own right or by contract with others;

I have raised in question time some concerns about this matter and I would appreciate some comments by the Minister. The Minister is correct; there are a number of pilots who are happy to have their services contracted out. However, conversely, there are some who do not want to be involved in a contracting out situation but want to remain employees of the port authority. Perhaps it could be clarified which people do not want to be involved in contracting out. Will they have job security? If the port authority decides to contract out, will some alternative employment be available to those people in an area in which they will need similar expertise? I do not want to suggest that if the decision is made to contract out and a pilot does not want to be part of it, that that should be a right of veto. I am suggesting there should be some security of tenure in employment.

The next point raised by the Minister was -

prescribe the functions and duties of harbour masters and provide port authorities with the power to appoint a harbour master;

That is appropriate. The functions and duties of harbour masters should be detailed and the Opposition congratulates the Government for doing that. The next point raised by the Minister was -

strengthen accountability provisions, clarify the responsibilities of port authority board members and amend the procedures for the appointment of port authority board members;

Those matters are all particularly appropriate and will enhance the ability of a port authority to manage its own affairs in a reasonable way. I also note a number of amendments to certain port authority Acts, the Marine and Harbours Act and the Shipping and Pilotage Act. I have contacted a number of people who have an interest in those areas and the Opposition has no problems with that part of the Bill.

In conclusion, I will give an example which may be of some value to the Minister. The Deputy President (Hon Barry House) and I were in New Zealand when Government enterprises were being given the ability to be either privatised or contracted out. I remember specifically the electricity generating commission in New Zealand which had been corporatised. The Minister tried to distance himself as much as possible from interfering in the administration of the electricity commission in New Zealand. The only difficulty was that it did not rain in New Zealand. I do not know how the Minister could possibly be responsible for that, but the great difficulty in a public sense and in a parliamentary sense is that he was very much held accountable for that. It is one of those issues that realistically we must be careful of, as an Opposition aspiring to be the next Government, or as a Government: That in an effort to allow independence and the ability for managers to manage, at the end of day it is the politicians who will still wear the responsibility for the decisions, no matter how much distance one may have between oneself and the instruments that are getting greater independence. In saying that, one of the salient points is that it will always be politicians who are ultimately responsible for providing these sorts of services and lots of others. Sometimes providing too much distance, not just in the example I gave but in a lot of practical and smaller examples, will be of considerable difficulty for politicians. I do not suggest that that is necessarily going to happen under this Bill or that the Minister has been extravagant, but it needs to be considered by the Government that in an effort to decide how some Government enterprises should operate, at the end of the day it can be dangerous to provide them with too much autonomy and independence so they might then make decisions that will leave the responsible Minister with difficulties. I do not want to go on with homilies of my experiences in New Zealand, only to say that, as I intimated earlier, the Opposition will be supporting this Bill.

**HON TOM HELM** (Mining and Pastoral) [11.06 pm]: I too support the basic thrust of the Bill. I also share some of the concern that the Deputy Leader of the Opposition has expressed. Perhaps the Minister can answer my concerns in his response to the second reading debate.

I am aware of the workings of the Port Hedland Port Authority, which I will return to later in my speech. I have read the Minister's second reading speech and the Bill, and I cannot see how wide ranging the consultation has been. I understand that the Port Hedland Port Authority has to some extent agreed with the thrust of the Bill, but still has some concerns. The Deputy Leader of the Opposition pointed out in particular the contract pilot issue. Can the Minister explain what effect, if any, there would be on this Bill, and on the different ports, from the new industrial relations legislation? Is the Minister proposing further amendments to accommodate some of the changes that have already gone through the Parliament, or will the Minister be making those changes through regulations, and how far can those regulations go?

The Minister makes no apology in the second reading speech for a number of references to the Minister and the Treasurer and for saying that the new port authorities will have to report to Perth. The Deputy Leader of the Opposition said that the Minister will operate at arm's length from the ports, but will still have to take the political flak if there is ever a need. I take the opposing view. If the authority must report to or obtain the agreement of

the Minister and Treasurer on its activities, do additional measures need to be put in place in the legislation or is that a drift towards the authorities having some of the autonomy that is talked about in the second reading speech?

I bring to the attention of the House, particularly to the Minister for Transport, the paragraph in the second reading speech that concerns waterfront reform. I hope we can put to bed the farmers' cry about the need for waterfront reform and how everything costs a fortune. As members of the House will be aware, the Leader of the House in the second reading of the Bill stated -

The waterfront is undergoing significant reform. Waterfront labour arrangements have been rationalised, leading to greater productivity, greater reliability and reduced labour costs. These changes are essential not only to the waterfront sector but also to the economy of Western Australia and the future of our ports and the regions they serve.

The Minister has told the House that waterfront reform has been implemented, that measures are in place which will lead to higher productivity, greater reliability and reduced labour costs. Hopefully this Minister will never again use the spectre of those naughty wharfies who are stopping the farmers from making a fortune. That comment will be appreciated by the Minister. Because of reform, the rationalisation of stevedoring gangs, wharfies' work and the way work is performed across the board there will be a need to look at the authorities and Acts which govern the functions of the ports to reflect the different way that the work is done these days and to make sure that those efficiencies that have been gained remain in place. We cannot have one thing without the other. The House should recognise the number of comments from both interstate and intrastate about reduced costs on the waterfront yet shippers are not reducing their charges very much. It appears that some stevedoring companies are not reducing their prices to reflect the lower costs. I do not know if that is true, but members can see that this Bill appears to do its job in that regard.

Hon W.N. Stretch: I met a wharfie the other day who was buying a farm to run in his spare time

Hon TOM HELM: Why not?

Hon John Halden: I didn't know you farmers had all that time.

Hon W.N. Stretch: It was a tax deduction for the wharfie.

Hon TOM HELM: I have known a few merchant seamen who have been farmers as well, and I went to sea myself.

Hon Doug Wenn: And politicians.

Hon TOM HELM: Yes, indeed. I bring to the attention of the House the second reading speech with regard to the question I asked about the ability of the Minister to stay at arm's length from the authority. The relevant paragraph, at the top of page 3608 of *Hansard* states -

The Government also recognises the need to minimise the risk to the public purse of allowing port authorities these additional powers. To this end, all port authority business arrangements must be approved by not only the Minister for Transport but also the Treasurer. In addition, existing provisions of the Financial Administration and Audit Act require disclosure of such financial arrangements in the annual financial statements of the port authorities.

I am aware the Port Hedland Port Authority wanted to go into some joint venture arrangements with the Shire of Port Hedland, the Town of Port Hedland as it is now, because it was possible for the port to tap into the lucrative trade of the North West Shelf gas operation with the provision of platforms, services and spare parts. The port authority could not respond to a request for a lay down area for pipes and drills within the port authority area and was negotiating with the shire to see whether it could provide that storage area in order to service the rigs. At that time there was something in the authority's Act that prevented it from going into a joint venture partnership with the



shire. Going down the same track as the Bill suggests, that highlighted the ability of the port to reflect the region's requirements. The port authority at Port Hedland has as its major exports iron and salt, and now it has magnesium to a certain extent. The port authority has plans in place and funds in its coffers to build another wharf. To do that there has to be some commitment from the hinterland, and I understand the authority is looking at the Nifty copper project and a couple of other ventures to get a continuous flow of exports through the port to make the wharf viable. I hope the Minister will be able to tell us whether the Bill reflects that. I can find no reference, but that may be my ignorance. The Minister in his second reading speech says that it is not just a Bill for a port to load and unload ships but reflects the needs of the region in regard to not only the import and export of goods but also the storage of various equipment.

On the subject of Port Hedland I take the opportunity to advise the House of the recent retirement of the Chairman of the Port Hedland Port Authority, Jack Haynes, who is an identity in Port Hedland and has lived there for about 40 or 50 years. He is about 70 years plus now. He has been an element in the town and played a major role in the port's development. He was appointed chairman of the port authority 20 years ago and has taken a strong line for the port authority to deliver to major customers, the iron ore and salt exporters. He has not only delivered constant and guaranteed facilities for them but also looked after other interests, ranging from the 250 000 tonne iron ore carriers to small fishing boats, which are now coming into the port more often.

I am sure you could imagine, Mr Deputy President (Hon Barry House), a wharf big enough to hold two 250 000 tonne carriers, if you thought in terms of football fields, and this has to be a wharf big enough to cater for the needs of a fishing boat to discharge its catch quickly in order to catch the next tide. With a huge iron ore carrier coming down the channel, it is a massive job to have a ship delayed while the fishing boat turns around or to have the fishing boat stop discharging its fish and get off the wharf while the ship comes alongside and then go under the stern or bow. Jack Haynes had to maintain the goodwill of both the huge BHP and Goldsworthy iron ore carriers, without which the port would probably collapse, while not discouraging the smaller fishing boats from coming alongside and discharging as quickly and efficiently as they could. Jack Haynes is the sort of novelty character who could do that quite successfully. He is a true north westerner in many ways, because he does not whinge and has always been able to meet circumstances with a smile. He used to do postal runs out to Marble Bar and Nullagine and ride a horse, and do all those things that used to happen 30, 40 or 50 years ago. He has played such a major part I thought it would be remiss of me to let this opportunity pass of making the House aware of his retirement.

I am concerned about another part of the second reading speech, also on page 3608 of *Hansard*, which states -

Specifically, the Bill provides that the Minister may give directions in writing to a port authority with respect to the performance of its functions, either generally or in relation to any particular matter, and the port authority must give effect to any such direction. The text of any such direction must be included in an authority's annual report. This provision will strengthen and clarify ministerial responsibility in relation to port authorities, while at the same time ensuring accountability by requiring the full disclosure of ministerial directions.

This seems to suggest some sort of authoritarian direction coming from the Perth area. We hope we are not going down the road of the independent colleges in the north west. We think we have an excellent model of how to deliver education and training. We did it probably by accident and it was a painful process, but we got there. Even with a few shortcomings, we are able to run particularly the ports at Dampier and Port Hedland. Those ports appear to be successful. However, this paragraph seems to suggest that we might have the dead hand of a CEO, not meaning any criticism of the Minister, and there may be that bureaucracy we tried to shake off from the education process. I wonder how much effect this paragraph will have and where in the Bill it is reflected, so we can see how much independence those authorities will have. I support the Bill.

**HON DOUG WENN** (South West) [11.19 pm]: Mr Deputy President, all Bills that come into this place are important, but some are very close to the heart of individual members. This is one I have had very close to my heart because, being an ex-member of the Bunbury Port Authority, I have had the opportunity to see how ports properly operate, which is a great experience for any individual. Going through the second reading speech and parts of the Bill, there are questions that I would wish to ask during the Committee stage; however, I am giving the Minister some warning of those questions. The opening statement of the second reading speech is absolutely correct -

This Bill recognises the vitally important role of ports in the Western Australian economy. The efficient operation of our ports is crucial to our export earnings and economic prosperity.

One of the major regrets I have at this time in speaking to this Bill is that my dear and close friend, Mr Brian Cunningham, who was the managing secretary of the Bunbury Port Authority, only one year and one week ago passed on. Bunbury has a new manager. I must say that Con is doing an extremely good job and is someone of whom I think we will be very proud. Members have just heard my colleague, Hon Tom Helm, speak about the importance of Dampier and the Port Hedland ports; however, the Bunbury and Albany ports are equally important. I am proud to have been on the Bunbury Port Authority.

I will put some concerns to the Minister. I am not looking for an answer at this stage but will raise them again during the Committee stage. One of the points the Minister makes in his speech is that the port authority legislation is in many cases outdated and unnecessarily restrictive in the powers provided to authorities in the adoption of normal commercial practices. The Western Australian Port Authority meets every two years. It travels extensively along the coast of Western Australia from Albany to Port Hedland - including towns such as Bunbury, Dampier, Esperance, Fremantle and Geraldton - and has discussions in those areas about how it can better manage the port authorities. Has the Minister had in depth discussions with people in those towns about what changes they are seeking?

The second reading speech states that the Bill provides for the clear ability for port authorities to enter into business arrangements. I would like the Minister to explain that in a little more detail when the time comes because some port authorities can already enter into business arrangements with the directive of the Minister, as has been the case in the past. I agree with allowing port authorities to provide pilotage services either in their own right or by contract with others. I understand that that already occurs in Bunbury.

I also absolutely accept the fourth objective of the Bill, which is to prescribe the functions and duties of harbour masters and provide port authorities with the power to appoint their own harbour master. They should be kept on home ground. Captain Bob Allsop has not been the easiest man to get along with in the past, but when one gets to know Captain Bob he is a genuine person who believes in his port; he puts his whole heart and soul into it. He educated two or three people through the port. I am happy to say that Captain Ambrose was able to take his position; however, it was not easy. Even though the Bunbury Port Authority accepted his appointment it had to go through a fight with the Department of Marine and Harbours because an individual who did not like Captain Ambrose made it a little more difficult than it should have been. I agree 100 per cent that the port authorities, if they understand the individual, should be able to have that authority.

The fifth objective of the Bill is to strengthen accountability provisions, clarify the responsibilities of port authority board members and amend the procedures for the appointment of those members. I am particularly interested in how the Minister will implement the objective to amend the procedure for the appointment of port authority board members. I have read through the Bill and even though the Minister has provided a brief explanation, it does not explain how the Government will change the system. The system at this stage is at the whim of the Minister by nomination from the board.

Hon E.J. Charlton: It is not about that type of appointment; it is about ensuring that they continue on even if they expire because the Minister has not got around to reappointing them.

Hon DOUG WENN: I am sorry Minister; I thought that was already occurring.

Hon E.J. Charlton: No.

Hon DOUG WENN: It did occur in Bunbury. Two people were not re-endorsed to carry on their positions, but they carried on those positions until after the election when they were told, "Thanks very much; but, no, thanks." Two other people were then appointed. I can understand the world of politics in the appointments to the board because I have been there. It was only through a similar situation that I was able to get onto the board.

The Bill also states -

The aim of this Bill is to ensure that port authorities can operate in the most efficient and effective manner possible. To this end the Bill seeks to allow port authorities to build upon the significant progress they have made in recent times towards a greater commercial focus.

That is a fairly broad statement. Perhaps during the Committee stage the Minister will be happy to confine that statement more to what he is trying to put across. The Bill further states that the Government will require that these services be provided in a commercial manner. It states -

To this end port authorities will be given the flexibility to either provide a service themselves, enter into business arrangements which will allow the private sector to become involved in the provision of the service, or stand back and let the private sector provide the service.

This Bill refers to the whole State. I am interested to know to which services the Minister refers. Obviously every port will be able to provide a different number of services. Fremantle has bulk loading and overhead ship containers. Bunbury does not have that facility but it has a huge input of mineral sands, alumina and woodchips. People provide those services; however, there is also a general purpose berth. What services does the Minister consider will be provided? It gets to a stage where private enterprise takes over entirely. I understand that it already controls a certain percentage of services. At a certain time will it come down to berthing arrangements? Most ports already have their own berthing crews which the port authority looks after. The speech states further on that the Acts of port authorities are unclear and vary between the authorities. I refer again to WAPA which meets regularly. Other than the privately owned ports, I thought there would be a clear understanding between the ports that they pretty well work to the same system. I ask the Minister to explain that.

I wonder whether the Minister really is changing the system overall. The speech states that at the same time - that intrigues me greatly - the Minister for Transport will retain an overriding power to direct port authorities. The power is exactly the same as the Minister has now and as Ministers in previous Governments had. How much freedom will be given to the port authorities? The second reading speech indicates that all port authority business and arrangements should be approved not only by the Minister for Transport but also by the Treasurer. To what degree will the Treasurer be able to advise the Minister in making decisions?

The second reading speech also indicates that pilots were in the past employed by external agencies to the port authority, "thereby leading potentially to conflicting objectives and responsibilities". In my capacity as a member of the Bunbury Port Authority Board I travelled extensively to just about every port in Western Australia to look at their operations. I have never seen the potential for such conflict. Will the Minister explain that reference, perhaps even tonight at the end of my speech?

The second reading speech also refers to the port authorities appointing their own harbour masters. I agree 100 per cent with that. This will make it much easier for the appointment of an individual who has been trained by the previous harbour master. In

that way, the harbour master will know the place like the back of his hand. The current harbour master at Bunbury is Clive Ambrose, who has replaced Bob Allsop. In the past Bob would not bring in ships in certain weather, but Kevin will now do that - he is younger and he also has the inner harbour protection unavailable to Bob. In earlier years Bob Allsop had to bring ships into the old wooden jetty, and upon his retirement he was given a stand made up of the timbers from the jetty from an occasion when the ship forgot to stop until it hit the jetty. A remnant was taken from the jetty and made into a retirement trophy for him. Clearly, Clive Ambrose has a different system. Another part of the second reading speech refers to authority members not retaining their position until replacements are appointed. My understanding was - as happened at Bunbury - that those people will remain in those positions until other people are appointed after the election.

I quickly turn to page 41 dealing with the Esperance Port Authority - I could have turned to any one of those provisions. Upon a quick read of the Bill at its introduction, I noticed that the name of the managing secretary - as they are known at all ports currently - is to be changed to general manager. The Bill also states that these persons will have to report back to the overall general manager. In other words, they must refer to the senior person within these Minister's departments who is also called a general manager. Is that correct? Such references can be found in the other authority references such as Geraldton and Albany as many of these provisions are repeated. The provisions state that the port manager must refer back to the Minister's department and directly to the Minister. I may stand corrected on that. I presume that they will report to the general manager in the Minister's department who will report to the Minister. This adds a middle party, and this matter requires explanation. I am sure those involved would like to know, if they have not already been told, what their duties will be. Will they have the autonomy they have today within each port, or will every decision be reported to the general manager within the Minister's department?

This legislation is close to my heart. One cannot look into too many Bills which come into this place; this is one. I will pursue this Bill during the Committee stage when I will have other questions to ask. I support the Bill.

**HON E.J. CHARLTON** (Agricultural - Minister for Transport) [11.36 pm]: I look forward to the Committee stage. Along with a couple of other members, I thought this Bill would not take too long to handle. Obviously, if I give the right answers, it will not.

I thank the Opposition for its support of the Bill. It has been widely acknowledged that the port authorities, particularly the regional ones, have wanted these changes implemented for some time. Wide consultation occurred on this Bill. The first function when I became Minister for Transport was to attend a Western Australian Port Authority annual conference in Bunbury. This was Jack Lane's last conference as WAPA President. Before that meeting I was told that this bloke rules with an iron hand and did not take any rubbish from anybody. I was not at the meeting long before I saw this demonstrated. A member of another port authority wanted to move a motion, and Jack Lane said that he would not accept that. That not only put that other delegate in his place -

**Hon John Halden:** We certainly understand that over here.

**Hon E.J. CHARLTON:** He also did not have to demonstrate whether he had the numbers - he just did it. That was the situation in the past. Hon Tom Helm and Hon John Halden referred to consultation. Widespread consultation occurred and this Bill follows a direct request from all the port authorities, as a collective group and individually. These changes were wanted.

**Hon Tom Helm:** Did this start with the previous Government?

**Hon E.J. CHARLTON:** It had not started in these terms when I became Minister. However, these changes have been requested for a long time. It had been promised for a long time, but no-one had got around to doing it. It seems commonsense that these changes should be made, and as a consequence we decided to get on with it. That is the basis for this legislation.

Great variance arises between some of the authorities. The authorities at Dampier and Hedland referred to by Hon Tom Helm handle large throughput, and operate a little differently from some of the others as a consequence. As the member indicated, those ports also need to deal with lesser volume products as well. Hon John Halden said that some of the ports are under the control of the Department of Marine and Harbours in relation to pilots, and those authorities did not want to continue that situation; they wanted to choose and employ people. In the industrial relations aspect, this is a good example of how the authorities operate as they want to assure they have a long association with those people. Pilots are an essential and integral part of the operation of a port. Port Hedland, with its long channel, is probably different from any other port in the world. For a long time that port authority had been seeking to increase the salaries of pilots. I agreed early in the piece to ensure those pilots' expertise was recognised so they would stay in Port Hedland. I know Jack Haynes was very pleased about that decision. I also endorse what Hon Tom Helm said. In my short association with Jack Haynes it has been a pleasure to know the man. As a matter of fact I went there a few weeks ago and we had a meal together to acknowledge his contribution. Every port authority will have the option of employing its own pilots. That is accepted by the pilots and Port Authorities.

Hon Doug Wenn: At this time it is possible for some ships after a certain number of visits to a port to enter the ports without a pilot, particularly Navy ships.

Hon E.J. CHARLTON: It varies from port to port. As I said earlier, there is a great variation between a port like Bunbury and one such as Hedland. Although I acknowledge what the member says, we are authorising the port authorities to employ their own pilots.

The appointment of chief executive officers has been raised with me and I have an open mind on what should happen in the future. We have not gone that far yet because we are trying to give the flexibility and individuality to the port authorities to operate as they want. However, at the same time they are State instrumentalities and, in response to the points raised by Hon John Halden about New Zealand, at the end of day the Government must wear responsibility for the port authorities. If the board members and the chairmen are to be appointed, and the Government is to put its faith in them, it is logical that they should be trusted to select and appoint their managers. That is a fair observation and is something we can consider down the track. In time, the opportunity will arise to enable the authorities to corporatise if that is what is required. Then there will be no question that the directors, as they would be, would appoint their own managers. We have not done it this time because the present arrangement is working well. The managers are in place and all the ports are functioning extremely well. They are an example to the nation.

Hon John Halden raised a point regarding the business arrangement of the ports. We want to give flexibility to the port authorities so that they can have a business input into their operations. A good example of that is in Esperance where a shed is being installed to take advantage of the iron ore shipments. In another case, the port authority could enter into a joint venture with somebody, perhaps in the form of coal storage facilities which would be used prior to the product being moved out of a port.

Hon Doug Wenn interjected.

Hon E.J. CHARLTON: Exactly; rather than a port owning the whole thing it can enter into an arrangement which would increase the viability of the port and reduce the requirement to borrow money or have funds allocated from Treasury, but at the same time show some initiative by implementing some gains and improvements in the operation of the port. The ports want that flexibility. However, when they do that they will need to report to the Minister and the Treasurer. That is why I was trying to give a balance to the Port Authority operation. Extra opportunity and responsibility will be given to the board members, but hand in hand with these new found opportunities to make decisions at a local level. However, in so doing, it is imperative they report to acknowledge publicly those decisions which must be approved by the Minister and the Treasurer. As it is a State owned instrumentality taxpayers' money is put at risk.

Hon Doug Wenn interjected.

Hon E.J. CHARLTON: Yes; Bunbury is a very successful port. Under the dividend policy which has been around for a long time, it makes a contribution to the State. However, I do not agree with that principle. I think ports should be run as efficiently as possible and that they should not pay dividends to Government, but put aside funds to enable them to manage their operation and provide their own capital investment for the future needs of the port. If they can run it at a profit which enables them to pay a dividend, that money should be reflected in reduced port charges. That will enable them to do more business and so on.

Hon Doug Wenn: Would it not have an effect on other areas? Because of the depth of Bunbury port shippers get certain loads and go somewhere else to top up. Would that not be in conflict with that principle?

Hon E.J. CHARLTON: Not at all. The Bunbury port does business with what it puts across its port and to encourage shippers, exporters and importers to use that port. It is running a business and it must pay its way. It should not have to add to that by contributing to navigational charges and dividend policies and setting a requirement for each port authority to make a contribution to the Government. I am examining that aspect to see whether we can give an even greater degree of flexibility and initiative to ports to enable them to carry out their operations. As I mentioned, these changes are on the basis that the port authorities want to do that.

Hon John Halden: One of the problems with not paying the dividends to the consolidated fund is that often the money can be spent in other ways such as on lavish accommodation. There should be some control over those things.

Hon E.J. CHARLTON: The Government should ensure that the initiatives are in the right direction; we should not have port authorities trying to avoid paying a dividend by spending money in other directions. It should be done in a businesslike manner with the understanding that their charter is to get products across the waterfront at the cheapest possible price. We need to encourage the people who are part of that. I acknowledge that shippers are a very central part of this operation, as well as stevedores and a range of other people.

Hon Doug Wenn: Is there anywhere in the Bill to allow those to make a profit or return a dividend?

Hon E.J. CHARLTON: I make the point that this is coming to their operation, and I am looking at the other angles but they are not part of this Bill. Hon Tom Helm referred to Port Hedland, and I have said that consultation has been widespread in that area. Industrial relations matters will not be entered into because they are covered by the employment arrangements, especially the integrated work force. That port is ahead of all the others. Waterfront reform is widely acknowledged, and we want to encourage the major ports around Australia to reform in the same way that the regional ports have. Changes are still taking place, particularly in Fremantle, and they are all positive. Somebody from the Opposition's side of politics told me last night that they think I am not a bad bloke.

Hon John Halden: Who was that?

Hon E.J. CHARLTON: I would not like to do that person in, because it could ruin the future of that person in the Labor Party! Fremantle has increased its throughput significantly in the past three months. I have talked before about the shipping seminar organised because I wanted the shippers to play a part to ensure that more products were shipped through that port. The comments on the storage area are quite true and that will be addressed as a consequence of this Bill. We have given Dampier the go ahead to enlarge its wharf area for similar reasons - to enable it to provide a better service to the gas and oil industries and so on.

I advise Hon Doug Wenn who thought that they were all operating on the same basis, that the ports are operating under different Acts. Albany probably is the worst example and is operating under the oldest Act. That port authority was very keen to see these

changes. We want all the ports to be under the same Act so that the legislation and operations are consistent.

Some problems have arisen with appointments to the boards. This year, with the changeover of Government, some boards could not meet because they did not have the required number of members. Appointments were not made prior to the election and the boards had to wait. That has been changed to enable boards to carry on their functions. The Government is not heading down the path of privatisation for port services. It wants total flexibility for the port authorities to manage their own affairs. No change has been made in the appointment of the boards. They will still be made by the Minister but will be fully flexible. The boards are required to report only when changes are made or at the end of the year in their annual report.

The final point relates to general managers and the reporting procedures. I am not aware of the doubling up situation referred to. If members opposite are agreeable, because I have not had any feedback indicating that this is a problem, I will take the details from them and provide them with the information. Members opposite are correct in saying they will be managers and will report in the same way as the current management does. I thank members opposite for their support.

Question put and passed.

Bill read a second time.

#### *Committee*

The Deputy Chairman of Committees (Hon W.N. Stretch) in the Chair; Hon E.J. Charlton (Minister for Transport) in charge of the Bill.

**Clauses 1 to 33 put and passed.**

#### **Clause 34: Regulations about liability of port authorities -**

Hon TOM HELM: I shall move that part of this clause be referred to the Standing Committee on Legislation or the Joint Standing Committee on Delegated Legislation. I leave it to the Minister to decide which is appropriate when he has heard my comments. Paragraph (a) seems quite sensible, and I presume there will be good reasons for paragraph (b). I am concerned about paragraph (c) because it limits the port authority's liability for loss of or damage to goods in its port, and loss of or damage to vessels due to stevedoring carried out by the port authority. Paragraph (d) limits the time for making a claim. It is a draconian measure and perhaps it should be reconsidered.

Hon E.J. CHARLTON: This clause ensures that the port authorities will be exempt from liability for the reasons outlined in it. I understand it is consistent with the current situation and the general operations within a port.

Hon TOM HELM: What the Minister said is true for paragraphs (a) and (b). However, I have some concerns about paragraph (c) because it refers to limiting the port authority's liability for loss of or damage to goods in its port. It is far reaching because it does not matter what the port authority does, if someone makes a mistake there will be no responsibility attached to him. Does this clause prevent anyone from making a claim against the port through the courts?

Hon E.J. CHARLTON: The member is reading this clause in its broadest context. Although it is a specific clause, it does not relate to the port authority being responsible for the goods which disappear from the port. It states that the transfer of goods and in that case the loss of or damage to those goods will not be the responsibility of the port authority. Paragraph (c)(ii) limits the port authority's liability for any loss of or damage to vessels due to stevedoring carried out by the port authority. In other words, the responsibility in this case cannot automatically be attached to the port authority. The member would be aware that while a vessel is in port a whole range of players, other than the port authority, are involved. This clause simply ensures that unless it can be demonstrated that the port authority is responsible for the loss of or damage to goods or vessels in the port it will not accept liability.

Hon TOM HELM: I understand that, but paragraph (c)(ii) reflects the opposite to that which the Minister said. It refers to stevedoring carried out by the port authority. If the clause stated, "loss of or damage to vessels due to stevedoring carried out within the port authority area" it would reflect what the Minister said. The clause does not refer to a stevedoring company owned or managed by the port authority.

Hon E.J. CHARLTON: The simple answer is that I do not know. The fact is that it is consistent with what is currently in place. I cannot give the member an explanation and I should have had an adviser with me to give the member that detail. However, I will provide him with the detail during the passage of this Bill through the Parliament.

Hon TOM HELM: Paragraph (b) is a departure from the norm. It is limiting time for making a claim against the port authority for loss of or damage to goods or vessels. It is like a Statute of limitations - the port authority has the authority to tell someone what the time limit is on making a claim. I suspect there is a standard and I ask the Minister to give this matter some consideration.

Hon E.J. CHARLTON: During the passage of this Bill through the Parliament I will obtain the responses for the member.

Hon DOUG WENN: The Minister made a statement to the effect that this is what happens in ports now. In the last six months the stevedoring companies which employed people to load and unload ships no longer do that. The lumpers are now employed by the port authority. Will the Minister provide more detail on paragraph (c)?

Hon E.J. CHARLTON: The member is correct. The port authorities employ people to carry out their own stevedoring. I have not been through this point with Parliamentary Counsel. Again, I will ensure I obtain the details for the member during the passage of this Bill through the Parliament. If he is not satisfied with the answer we will discuss the matter and perhaps make the necessary changes. The member raised an important point.

**Clause put and passed.**

**Clauses 35 to 50 put and passed.**

**Schedule put and passed.**

**Title put and passed.**

### *Report*

Bill reported, without amendment, and the report adopted.

### *Third Reading*

Bill read a third time, on motion by Hon E.J. Charlton (Minister for Transport), and transmitted to the Assembly.

## **ADJOURNMENT OF THE HOUSE - ORDINARY**

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [12.10 am]: I move -

That the House do now adjourn.

*Adjournment Debate - Davies, Hon Reg, Gag Motion Division, Vote Mistake*

**HON REG DAVIES** (North Metropolitan) [12.11 am]: I have always been a very strong advocate for people's rights, freedoms and liberties, and have always been a fighter for the right of free speech. Tonight during a division on a gag motion, moved by Hon Peter Foss during the contempt debate, I misunderstood the procedure, and I voted with the Government on the gag motion, mistakenly, thinking that I was voting on the substantive motion. The mistake was due to my lack of knowledge of the rarely used procedures. I just want to ensure my electors and the House that I will never consciously vote to stifle the debate of any elected member. I want to set the record straight in that regard.



*Adjournment Debate - Mangles Bay Marina Development, Seagrass Meadows*

**HON J.A. SCOTT** (South Metropolitan) [12.12 am]: I bring to the attention of the House a matter of great importance concerning Cockburn Sound remaining ecologically sound. Thirty-two hectares of seagrass meadows in Cockburn Sound will be destroyed if a marina development at Mangles Bay goes ahead. Already 90 per cent of the seagrass meadows has been lost, and we cannot afford to lose any more. Seagrass meadows provide vital nurseries and feeding grounds for a wide variety of marine species. Once seagrass meadows are destroyed they cannot be regenerated and their loss affects the whole marine ecology of the area.

These precious seagrass meadows are threatened by the proposed marina development to accommodate upmarket luxury sailing boats. It will basically fill in 17 hectares of the bay and promises to push out the local recreational boat owners who will not be able to afford exclusive boat pens. Furthermore, this is a development which in no way meets the needs of the local community. In fact, it will monopolise the bay and take away four sites on the foreshore currently occupied by important local clubs. These clubs are the focus of the community.

The Environmental Protection Authority recommended that the proposal be rejected as being environmentally unacceptable. The proponent, the Department of Marine and Harbours, has appealed against the decision and the Minister's decision is imminent. If the Minister upholds the appeal, I want to know on what basis the decision was made and on whose advice. What authority does the EPA have? It is clear that there are no grounds for upholding this appeal.

The two major reasons for the marina given in the public environmental review are, firstly, to meet the requirements of the boating public into the next century and, secondly, as a refuge for boats in transit up and down the coast. The marina meets only the requirement for boat pens. It ignores the requirements for other boats and destroys their present facilities. Everybody's requirements could be met by alternative proposals, and at a far lower cost both in money and in environmental terms.

Mangles Bay cannot be used for boats in transit because the Garden Island bridge is too low for most offshore boats. The PER also states that the marina is primarily to provide for boats operating within Cockburn Sound. Boats operating in the sound are represented by two clubs: The Mangles Bay Fishing Club and the Cruising Yacht Club. When members of these clubs were polled, they were opposed to the marina.

Apart from the crucial environmental impact of the development, it is not clear that the proponent is genuine and, in fact, it has been stated that the Department of Marine and Harbours should not be spending its money on more facilities. If the Department of Marine and Harbours will not build the marina, who will? Who is this proposal really for? The location is already a protected boat haven and all that the marina would do is to take away the facilities of a large number of low impact users to provide upmarket pens for a tiny number of private yachtsmen.

The marina design is faulty. Its main feature is a massive artificial promontory which means that the entry to the marina is directly into the south west wind and protects the marina from the east. The promontory fills in the very bay where boats are presently moored. Marinas built up and down the Western Australian coast during the 1970s are not commercially viable and the Government spent about \$100m at 15 sites in the 1980s on similar facilities. It is clear that nobody gains - neither the environment, the local community nor the taxpayer. The occupation rates for pens at marinas has also proved to be very low. The local community is hostile to the prospect of a marina. The development does nothing for the local community. It is designed for a small number of private yachtsman. The organisations which presently occupy the foreshore would lose their facilities; the beach would be alienated; and fishing would be adversely affected through this seagrass loss.

Apart from the obvious impacts of this proposal, I am vehemently opposed to any development which will further destroy seagrass. Currently scientific research indicates

the seagrass meadows lost are never regained. There has been some success in regenerating seagrasses in laboratory conditions but no success at all under natural conditions. Mangles Bay is at the bottom end of Cockburn Sound, a sound which is already suffering from ill health and depleted fish supplies. The loss of further seagrass meadows in the sound can only worsen this current state of health and do nothing to restore that which has already been destroyed.

Research has been conducted by both the Commonwealth Scientific and Industrial Research Organisation and Murdoch University. Dr Hugh Kirkman, a leading researcher in seagrass regeneration in Western Australia, has indicated with examples that seagrass has not returned in tens of years. I have a letter from Dr Kirkman to the Marine Impacts Branch of the Environmental Protection Authority of Western Australia and I refer to the part pertaining to Western Australia. Dr Kirkman also has examples in other States where there have been unsuccessful attempts to regenerate seagrass. The letter, in part, states -

For three years 1988-91 I attempted to grow *Posidonia* in aquaria and in the field. I had 36000 seedlings growing in tanks in artificial light, some of these survived for three years, others were planted in Warnboro Sound, Cockburn Sound and Rottnest Island. These transplanted seedlings also survived but rhizome growth was negligible.

I also observed the natural growth of *Posidonia* seedlings at three other sites. Although in two cases many thousands of seedling attached to the sand after the December release of seedlings, there was only a few remaining after six months and a year after that none remained.

Any reports of regrowth of *Posidonia* in seagrass meadows should be treated with great caution. These reports are sometimes based on poor mapping and there is no record of recovery that has convinced me that *Posidonia* will return once removed or killed.

It is important to stress that I believe the Minister for the Environment has been informed by people who do not know the facts that seagrass meadows can be regrown and this is the basis on which the Minister will make his decision, if he has not already done so. I make it clear to this House that that decision will be based upon false premise. The location of this marina is already a protected boat haven. The marina would only take away facilities used by a lot of other people. If the Minister has any scientific evidence to suggest that seagrass can be regenerated, I ask him to inform the House and quote the current studies which provide the information. There is no reason for this development at Mangles Bay to proceed on social and environmental grounds, and the Minister, in all conscience, cannot uphold the appeal when the development will line the pockets of the developers, not meet the needs of the community, and certainly be environmentally detrimental.

#### *Adjournment Debate - Retail Trading Hours, Northern Traders' Views*

**HON TOM HELM** (Mining and Pastoral) [12.21 am]: I asked a question without notice about this matter today, and today I received a facsimile letter from Port Hedland, of which the House should be made aware. The letter is from Greg Johnson, the owner of a number of Tredways Shoe Stores in the north west, and states -

Dear Tom,

Following on from Judith Watson's policy statement on retail trading hours.

Traders in the deregulated region north of the 26th parallel are experiencing major difficulties since Coles has taken the opportunity of trading 24 hours a day 7 days a week, it has dramatically effected the pattern of trade with the main impact being a redistribution of market share from small traders to Coles.

The number of shopping visits to South Hedland Shopping Centre for example is down some 10,000 for the month of September according to the door counts.

Traders here met on Monday night and overwhelmingly endorsed seeking to put

our views to the forthcoming Government review, Minister Foss, has indicated as the north has already deregulated trading hours there is no need for them to be included in this forthcoming review.

Hon Peter Foss has indicated that traders who live north of the 26th parallel may make a contribution to the review. The letter continues -

This begs the question in Parliament of both Foss and Court "Why if the Government is having a review and it is statewide ie. the whole of Western Australia, is the north not included, are we not a part of Western Australia.

"Don't we get an equal right to submit our view."

Are we northern traders disenfranchised voters?"

Despite the deregulated situation, the majority wish to put their position with a view to bringing about some changes.

If we are not included in the review how can our view be known.

Mr Court and his father pride themselves on their North West achievements, so why do they choose to ignore northern retailers views.

Could you please raise the issue in your most forthright manner, . . . we provide enough taxes and demand to have our views put. Despite our deregulation predicament.

I know, because my office is in the South Hedland Shopping Centre, and the small traders indicate this to me often, that because Coles is trading 24 hours a day, seven days a week, the smaller traders are suffering badly and have been for some time. It is time that someone takes notice of their plea, and that is why I have read this letter to the House.

**HON PETER FOSS** (East Metropolitan - Minister for Fair Trading) [12.23 am]: I understand that the member has read that letter because he has been asked to do so, but I am surprised that he has done so, having heard the answer to his questions. The review that is being carried out is not a review of retail trading hours throughout the State but is a specific review pursuant to the Retail Trading Hours Act 1987, which provides that it shall take place after September. That Act does not apply north of the 26th parallel.

Hon Tom Helm: I have said that.

Hon PETER FOSS: I realise that, but it is important that people understand that this is not a general review of trading hours throughout Western Australia but a review which is required by the Act of the Act. Those people can make any suggestions that they want to make, but the review must be in accordance with the Act, which does not apply in that part of the State. People anywhere in the State, or, for that matter, anywhere in Australia or in the world, would not be excluded from making suggestions.

Question put and passed.

*House adjourned at 12.25 am (Friday)*

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## QUESTIONS ON NOTICE

AUDITOR GENERAL - GOVERNMENT DEPARTMENTS OR AGENCIES,  
LETTERS ADDRESSED TO CHIEF EXECUTIVE OFFICERS

946. Hon TOM STEPHENS to the Minister for Health representing the Attorney General:

Would the Attorney General indicate for the financial year 1992-93, which departments or agencies within her portfolio area she has received from the Auditor General copies of management letters addressed to the chief executive officer?

Hon PETER FOSS replied:

The Attorney General advises that the Crown Law Department, Office of Women's Interests and the Western Australian Electoral Commission received letters from the Auditor General.

CRIME - WILFUL MURDER CONVICTIONS, RELEASED ON PAROLE  
*Violence or Serious Offences Convictions*

1059. Hon JOHN HALDEN to the Minister for Health representing the Attorney General:

- (1) In each of the last 10 years how many persons convicted of wilful murder were released on parole?
- (2) How many persons have subsequently been convicted of offences involving violence or other serious offences and what were the details of such offences in each case?

Hon PETER FOSS replied:

- (1)
 

1983	1
1984	1
1985	4
1986	2
1987	0
1988	0
1989	1
1990	4
1991	0
1992	3
1993	0
- (2)
 

1986	1 offender - aggravated sexual assault, wilful murder
1990	1 offender - unlawfully drive motor vehicle, stealing, attempt stealing, unlawfully on prison grounds.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF -  
LOGGING, CHITELUP FOREST BLOCK  
*Rose and Bending Forest Environmental Consultants*

1163. Hon J.A. SCOTT to the Minister for Education representing the Minister for the Environment:

- (1) Is it correct that -
  - (a) the Conservation and Land Management's logging contractors operating in Chitelup forest block adjacent to Bevan Road in the southern forest region are Rose and Bending Forest Environmental Consultants;
  - (b) one of the partners in Rose and Bending Forest Environmental Consultants is a former Conservation and Land Management district manager in the southern forest region; and

- (c) one of the partners in Rose and Bending Forest Environmental Consultants has or had a close relative in a senior administrative position in Conservation and Land Management's southern forest region Manjimup office?
- (2) Is it correct that two loads of logs were removed from Chitelup forest block adjacent to Bevan Road in the southern forest region on Sunday, 22 August 1993 without a delivery note being filed for that day?
- (3) If yes to part (2), has a breach of the Forest Management Regulations 1993 (gazetted 9 February 1993) occurred?
- (4) In the light of the findings of the Daryl Williams QC inquiry and assurances given thereafter, will the Minister ensure that the prescribed penalty of \$2 000 described in those regulations is imposed?
- (5) If a delivery note purported to be for the two loads described in part (2) above was filled out on another day, will the Minister table that delivery note?
- (6) Have there been any other breaches of the Forest Management Regulations 1993, in relation to delivery note irregularities, in the southern forest region since their gazettal?
- (7) If yes, what are the details of those breaches?
- (8) What action has been taken?
- (9) Within Conservation and Land Management's Manjimup district of the southern forest region on 22 August 1993 -
  - (a) how many Conservation and Land Management officers were overseeing logging, loading and transport operations;
  - (b) how many trucks were observed transporting logs;
  - (c) how many trucks were stopped and their delivery notes checked;
  - (d) how many irregularities were found; and
  - (e) what action, if any, has taken place due to those irregularities?
- (10) Can the Minister assure the House that no loads of logs were taken out of the forest in Conservation and Land Management's Manjimup district of the southern forest region on 22 August 1993 without a duly filled out and signed delivery note for that day?
- (11) Can the Minister assure the House that for all loads of logs taken out of the forest in Conservation and Land Management's Manjimup district of the southern forest region on 22 August 1993 the Government has received the appropriate reimbursements?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

- (1) (a) No. Rose and Bending Forest Services.
- (b) Yes. Mr Paul Rose was manager of the Forests Department Walpole division office in 1983-84 and CALM's district manager at Walpole in 1986.
- (c) No. Caterina Bending, now the wife of a partner, was employed as a clerical officer from 1983 to 1993. Ms Bending was on maternity leave for the year or so before her resignation. This is not a senior administrative position. The intent of the member's question is not clear, but if he is suggesting malpractice, then he should be very aware of the potential impact of his questions on public

servants who are simply trying to do their jobs for the State.

- (2) No. One truck and trailer covered by two delivery notes was loaded with logs in Chitelup Block on 22 August 1993 and unloaded at the Diamond mill on 23 August 1993. In reply to question 857 I provided a comprehensive reply to a similar case that occurred in Treen Brook Block. In my reply I indicated that the 1993 forest management regulations will be amended to cover the situation where logs leave the forest on one day and are accepted by the buyer on a subsequent day.
- (3) There is prima facie evidence that a breach of the forest management regulations may have occurred. I have requested a full breach report which will be forwarded to the Ministry of Justice as to whether a prosecution would succeed.
- (4) Refer to (3) above. It would be the responsibility of a court to determine any penalty.
- (5) Copies of the delivery notes numbered 197497 and 197498 are tabled. [See paper No 833.]
- (6) There have been suggestions made that other similar instances have occurred where logs have left the forest on one day and been delivered on a subsequent day. A thorough check is being carried out. If the member has any information it would be appreciated if it was brought to my attention to assist the investigation.
- (7)-(8) Answered by (6).
- (9) (a) Nil; 22 August 1993 was a Sunday.  
(b)-(e) Not applicable.
- (10) No. See answer to (2) above.
- (11) Yes, to the audit limits of the logging system. It should be recognised that the contractors and their staff are employed and paid by CALM, not the sawmill companies.

#### PHOTOCOPIERS, HIGH VOLUME - GOVERNMENT DEPARTMENTS OR AGENCIES

1193. Hon TOM STEPHENS to the Minister for Health representing the Attorney General:

- (1) Which departments or agencies within her portfolio areas have a "high volume photocopying service" within their operations (ie, equipment capable of at least 100 000 copies per month)?
- (2) What type of high volume photocopying equipment is available in-house to each of those departments and agencies?
- (3) What human resources are allocated to operate this equipment and at what public service levels are each of these officers employed?
- (4) What was the actual expenditure associated with each of these high volume copiers for 1992-93?
- (5) What is their Budget allocation for 1993-94?

Hon PETER FOSS replied:

- (1)-(5) The information sought would require considerable research and the Attorney General is not prepared to allocate resources for this purpose. If the member has a specific question about "high volume photocopying" I will be pleased to respond.

**PRINT CELLS, IN-HOUSE PRINTING SERVICES - GOVERNMENT  
DEPARTMENTS AND AGENCIES**

1214. Hon TOM STEPHENS to the Minister for Health representing the Attorney General:

- (1) Which departments and agencies within her portfolio areas operate print cells for in-house printing services?
- (2) How many print cells are operated by each department or agency within his portfolio area?
- (3) What number of staff are deployed for the operation of each of these print cells?
- (4) At what public service levels are each of these officers employed?
- (5) What was the actual expenditure on each print cell during 1992-93?
- (6) What is their Budget allocation for 1993-94?
- (7) What equipment is allocated to each of these print cells?

Hon PETER FOSS replied:

- (1)-(7) The information sought would require considerable research and the Attorney General is not prepared to allocate resources for this purpose. If the member has a specific question about "print cells" the Attorney General will be pleased to respond. However, the Attorney General refers the member to supplementary information provided in response to his question asked during Legislative Council Estimates Committees.

**PORT KENNEDY DEVELOPMENT - CONSTRUCTION; CONDITIONS MET**

1226. Hon J.A. SCOTT to the Minister for Education representing the Minister for the Environment:

- (1) Has the Minister given approval for the commencement of construction at Port Kennedy?
- (2) If so, have all the ministerial conditions been met by the proponents?
- (3) If not, why not?
- (4) Have the following conditions been met -
  - (a) M2-2 plans of conservation zones and natural vegetation areas;
  - (b) M2-3 mechanisms for Crown reserve vesting of conservation zones;
  - (c) M2-4 plans of public access areas;
  - (d) M3-1 geomorphological terms of reference;
  - (e) M4-1 geomorphological site management plan;
  - (f) M11-1 sand dune management plan;
  - (g) M12-1 ground water management program;
  - (h) M14-1 review of north conservation zone;
  - (i) M14-2 adjust conservation areas;
  - (j) M15-1 terrestrial and wetland conservation management plan;
  - (k) M18 legal agreement between Government and developers;
  - (l) P7 marking out of figure 6 conservation areas;
  - (m) P9-1 fire management plan; and
  - (n) P13-2 definition of supplementary water requirements?
- (5) Are all of the reports prepared by the consultants to meet these conditions available to the public?

- (6) If not, why not?
- (7) If so, where are they available from?
- (8) Is the Minister aware of widespread public concern over the proposed route of the major access road to Port Kennedy which passes very close to important wetlands?
- (9) If so, will the Minister ensure that the wetlands are not put at risk by this development?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

- (1) No, approval has only been given for the establishment of an access road and minimal facilities to enable completion of the work which is required to meet those conditions which are required to be satisfied before construction of the golf courses, tourist hotel and other developments.
- (2) Not applicable.
- (3) Many are not required to be met yet. Those which are required to be met have been.
- (4)
  - (a) Yes.
  - (b)-(c) No.
  - (d) Yes.
  - (e) No.
  - (f) Yes.
  - (g) No.
  - (h) Yes.
  - (i) Yes, subject to assessment of change of stage 1/stage 2 boundary.
  - (j) No.
  - (k) I am advised that the Port Kennedy Development Agreement Act 1992 satisfies this condition.
  - (l) Yes, subject to assessment of change of stage 1/stage 2 boundary.
  - (m) Yes.
  - (n) No.
- (5) Yes.
- (6) Not applicable.
- (7) Reading room of the EPA library, 8th Floor, Westralia Square, 141 St Georges Terrace, Perth.
- (8) No.
- (9) This has been done.

#### HEALTH DEPARTMENT OF WESTERN AUSTRALIA - BLACKWOOD REGION HEALTH STUDY

1229. Hon BOB THOMAS to the Minister for Health:

- (1) Has the Health Department finalised the tender for a consultant to undertake the Blackwood region health study?
- (2) How much is being allocated to that study?
- (3) When is the report expected to be provided?

Hon PETER FOSS replied:

- (1) Yes, for the Warren-Blackwood area.
- (2) The tender was awarded for \$19 200.



- (3) The report is due on Friday, 18 February 1994.

**BEELIAR REGIONAL PARK - MINOR AMENDMENT**

1233. Hon J.A. SCOTT to the Minister for Health representing the Minister for Planning:

- (1) Has the minor amendment to establish the Beeliar Regional Park been completed yet?
- (2) If not, why not?
- (3) Did the Department of Resources Development or any other Government agency object to the minor amendment?
- (4) If so, on what grounds?
- (5) Has the Department of Planning and Urban Development ever attempted to delay the listing of the Beeliar Regional Park by the Australian Heritage Commission?
- (6) If so, why?
- (7) Is the Fremantle Port Authority proposing that the Henderson and Naval Base reserves should be used for a new port facility in Cockburn Sound?
- (8) If so, is this the reason why they are opposing the Beeliar Regional Park?
- (9) Why has the land in the vicinity of Mt Brown, within the proposed Beeliar Regional Park, been rezoned recently by means of a minor amendment?

Hon PETER FOSS replied:

- (1) No.
- (2) The Minister for Planning is still awaiting the advice of the State Planning Commission.
- (3) Yes.
- (4) The Department of Resources Development advised that part of the proposed parks and recreation reserve at Mt Brown conflicts with the Alumina Refinery Agreement Act 1961-77; there is a shortage of industrial land in the Kwinana area; employment opportunities would be restricted; and the parks and recreation reserve should not extend beyond the system 6 boundary on Mt Brown.
- (5) No.
- (6) Not applicable.
- (7) This is a matter that falls within the portfolio of my colleague, the Minister for Transport, to whom this question should be addressed.
- (8) The Fremantle Port Authority did not lodge a submission of any kind to either the Beeliar Park final report or the minor amendment.
- (9) The only recent minor amendment in the vicinity of Mt Brown is the Beeliar Regional Park amendment.

**GOVERNMENT DEPARTMENTS AND AGENCIES - FREEDOM  
OF INFORMATION COORDINATORS**

1246. Hon TOM STEPHENS to the Minister for Education representing the Minister for the Environment:

Would the Minister indicate who the designated officer is for each department or agency within the Minister's portfolio who has responsibility of coordinator in regard to applications under the Freedom of Information Act?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

The positions that are the designated FOI coordinators in each agency in my portfolio are as follows -

Aboriginal Affairs Planning Authority - A/Manager Information Services.

Department of Aboriginal Sites - A/Policy Officer.

Department of Conservation and Land Management - Manager Records.

Environmental Protection Authority - Director of Corporate Services.

Waterways Commission, Swan River Trust and Office of Catchment Management - Manager Corporate Development, Waterways Commission.

Perth Zoo - Administration and Finance Officer.

Kings Park and Botanic Garden - Manager Corporate Services.

Authority for Intellectually Handicapped Persons and Bureau for Disability Services - Manager Information Services. This position will retain the delegated responsibility within the proposed Disability Services Commission.

#### GOVERNMENT DEPARTMENTS AND AGENCIES - FREEDOM OF INFORMATION COORDINATORS

1247. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

Would the Minister indicate who the designated officer is for each department or agency within the Minister's portfolio who has responsibility of coordinator in regard to applications under the Freedom of Information Act?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

The designated officers of coordinator for freedom of information for each of the agencies in the Housing portfolio are -

Homeswest

Government Employees Housing Authority

Rural Housing Authority

Industrial and Commercial Employees Housing Authority

Sheryl Gourdis

Mr Howard Jackson

Mr Adrian Broun

Mr Bill Blackburn

#### MEDIA MONITORING - GOVERNMENT DEPARTMENTS OR AGENCIES

1259. Hon TOM STEPHENS to the Minister for Health:

- (1) What media monitoring is undertaken in-house by each department and agency within the Minister's portfolio?
- (2) What has been expended by each department or agency within the Minister's portfolio on media monitoring between 1 March 1993 and October 1993?

Hon PETER FOSS replied:

- (1)-(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about media monitoring undertaken "in-house" I will be pleased to respond.

#### MEDIA MONITORING - GOVERNMENT DEPARTMENTS OR AGENCIES

1267. Hon TOM STEPHENS to the Minister for Education representing the Minister for the Environment:

- (1) What media monitoring is undertaken in-house by each department and agency within the Minister for Environment's portfolio?

- (2) What has been expended by each department or agency within the Minister for Environment's portfolio on media monitoring between 1 March 1993 and October 1993?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

- (1)-(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about "media monitoring" I will be pleased to respond, although I draw the member's attention to the answer provided to question on notice No 1090.

**MEDIA MONITORING - GOVERNMENT DEPARTMENTS OR AGENCIES**

1268. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

- (1) What media monitoring is undertaken in-house by each department and agency within the Minister for Housing's portfolio?
- (2) What has been expended by each department or agency within the Minister for Housing's portfolio on media monitoring between 1 March 1993 and October 1993?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

- (1)-(2) The information sought would require considerable research and the Minister for Housing has indicated he is not prepared to allocate resources for this purpose. If the member has a specific question about media monitoring the Minister for Housing will be pleased to respond.

**MEDIA OR PUBLIC RELATIONS TRAINING - GOVERNMENT DEPARTMENTS OR AGENCIES**

1275. Hon TOM STEPHENS to the Minister for Health:

- (1) How many officers from departments or agencies within the Minister's portfolio areas have undertaken media or public relations training between 1 March 1993 and 31 October 1993?
- (2) What was the date of each training session?
- (3) Who provided the training?
- (4) What is the actual cost to date and estimated total cost of the training?

Hon PETER FOSS replied:

- (1)-(4) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about media or public relations training I will be pleased to respond.

**MEDIA OR PUBLIC RELATIONS TRAINING - GOVERNMENT DEPARTMENTS OR AGENCIES**

1281. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Community Development:

- (1) How many officers from departments or agencies within the Minister for Community Development's portfolio areas have undertaken media or public relations training between 1 March 1993 and 31 October 1993?
- (2) What was the date of each training session?
- (3) Who provided the training?

- (4) What is the actual cost to date and estimated total cost of the training?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following reply -

- (1)-(4) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about public relations training I will be pleased to respond.

**MEDIA OR PUBLIC RELATIONS TRAINING - GOVERNMENT  
DEPARTMENTS OR AGENCIES**

1283. Hon TOM STEPHENS to the Minister for Education representing the Minister for the Environment:

- (1) How many officers from departments or agencies within the Minister for Environment's portfolio areas have undertaken media or public relations training between 1 March 1993 and 31 October 1993?
- (2) What was the date of each training session?
- (3) Who provided the training?
- (4) What is the actual cost to date and estimated total cost of the training?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

- (1)-(4) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about "media or public relations training" I will be pleased to respond.

**MEDIA OR PUBLIC RELATIONS TRAINING - GOVERNMENT  
DEPARTMENTS OR AGENCIES**

1284. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

- (1) How many officers from departments or agencies within the Minister for Housing's portfolio areas have undertaken media or public relations training between 1 March 1993 and 31 October 1993?
- (2) What was the date of each training session?
- (3) Who provided the training?
- (4) What is the actual cost to date and estimated total cost of the training?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

- (1)-(4) The information sought would require considerable research and the Minister for Housing has indicated he is not prepared to allocate resources for this purpose. If the member has a specific question about media or public relations training the Minister for Housing will be pleased to respond.

**SEMINARS OR CONFERENCES - GOVERNMENT DEPARTMENTS OR  
AGENCIES**

1291. Hon TOM STEPHENS to the Minister for Health:

- (1) How many officers from departments or agencies within the Minister for Health's portfolio area have attended seminars or conferences for which the Government met the cost of registration between 1 March 1993 and 31 October 1993?

- (2) What was the nature of each conference, how many officers attended, where were they held, and what was the total cost for each conference and the cost per person?

Hon PETER FOSS replied:

- (1)-(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about seminar or conference attendances I will be pleased to respond.

**SEMINARS OR CONFERENCES - GOVERNMENT DEPARTMENTS OR AGENCIES**

1297. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Community Development:

- (1) How many officers from departments or agencies within the Minister for Community Development's portfolio area have attended seminars or conferences for which the Government met the cost of registration between 1 March 1993 and 31 October 1993?
- (2) What was the nature of each conference, how many officers attended, where were they held, and what was the total cost for each conference and the cost per person?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following response -

- (1)-(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about seminars attended by departmental staff I will be pleased to respond.

**SEMINARS OR CONFERENCES - GOVERNMENT DEPARTMENTS OR AGENCIES**

1299. Hon TOM STEPHENS to the Minister for Education representing the Minister for the Environment:

- (1) How many officers from departments or agencies within the Minister for Environment's portfolio area have attended seminars or conferences for which the Government met the cost of registration between 1 March 1993 and 31 October 1993?
- (2) What was the nature of each conference, how many officers attended, where were they held, and what was the total cost for each conference and the cost per person?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

- (1)-(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about "seminars or conferences" I will be pleased to respond.

**SEMINARS OR CONFERENCES - GOVERNMENT DEPARTMENTS OR AGENCIES**

1300. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

- (1) How many officers from departments or agencies within the Minister for Housing's portfolio area have attended seminars or conferences for which the Government met the cost of registration between 1 March 1993 and 31 October 1993?

- (2) What was the nature of each conference, how many officers attended, where were they held, and what was the total cost for each conference and the cost per person?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

- (1)-(2) The information sought would require considerable research and the Minister for Housing has indicated he is not prepared to allocate resources for this purpose. If the member has a specific question about conference attendances the Minister for Housing will be pleased to respond.

**PHOTOCOPY EQUIPMENT - GOVERNMENT DEPARTMENTS AND AGENCIES**

1307. Hon TOM STEPHENS to the Minister for Health:

What photocopy equipment is held within each department and agency within the Minister's portfolio area?

Hon PETER FOSS replied:

The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about photocopy equipment I will be pleased to respond.

**PHOTOCOPY EQUIPMENT - GOVERNMENT DEPARTMENTS AND AGENCIES**

1313. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Community Development:

What photocopy equipment is held within each department and agency within the Minister for Community Development's portfolio area?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following response -

The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about photocopy equipment I will be pleased to respond.

**PHOTOCOPY EQUIPMENT - GOVERNMENT DEPARTMENTS AND AGENCIES**

1315. Hon TOM STEPHENS to the Minister for Education representing the Minister for the Environment:

What photocopy equipment is held within each department and agency within the Minister for the Environment's portfolio area?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about "photocopy equipment" I will be pleased to respond.

**PHOTOCOPY EQUIPMENT - GOVERNMENT DEPARTMENTS AND AGENCIES**

1316. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

What photocopy equipment is held within each department and agency within the Minister for Housing's portfolio area?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

The information sought would require considerable research and the Minister for Housing has indicated he is not prepared to allocate resources for this purpose. If the member has a specific question about photocopy equipment the Minister for Housing will be pleased to respond.

**GOVERNMENT PUBLICATIONS - ISSUES; PRODUCTION DETAILS**

1323. Hon TOM STEPHENS to the Minister for Health:

- (1) What publications are issued by each department and agency within the Minister's portfolio on a regular or periodical basis?
- (2) For each publication -
  - (a) is it produced in-house or by an outside firm;
  - (b) what is the cost including artwork, printing and distribution;
  - (c) who is the target audience; and
  - (d) is a copy of each edition provided to the Library and Information Service of Western Australia?

Hon PETER FOSS replied:

- (1)-(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about publications issued I will be pleased to respond.

**GOVERNMENT PUBLICATIONS - ISSUES; PRODUCTION DETAILS**

1329. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Community Development:

- (1) What publications are issued by each department and agency within the Minister for Community Development's portfolio on a regular or periodical basis?
- (2) For each publication -
  - (a) is it produced in-house or by an outside firm;
  - (b) what is the cost including artwork, printing and distribution;
  - (c) who is the target audience; and
  - (d) is a copy of each edition provided to the Library and Information Service of Western Australia?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following response -

- (1)-(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about departmental publications I will be pleased to respond.

**GOVERNMENT PUBLICATIONS - ISSUES; PRODUCTION DETAILS**

1331. Hon TOM STEPHENS to the Minister for Education representing the Minister for the Environment:

- (1) What publications are issued by each department and agency within the Minister for Environment's portfolio on a regular or periodical basis?
- (2) For each publication -
  - (a) is it produced in-house or by an outside firm;

- (b) what is the cost including artwork, printing and distribution;
- (c) who is the target audience; and
- (d) is a copy of each edition provided to the Library and Information Service of Western Australia?

Hon N.F. MOORE replied:

The Minister for the Environment has provided the following reply -

- (1)-(2) The information sought would require considerable research and I am not prepared to allocate resources for this purpose. If the member has a specific question about "publications" I will be pleased to respond.

#### GOVERNMENT PUBLICATIONS - ISSUES; PRODUCTION DETAILS

1332. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

- (1) What publications are issued by each department and agency within the Minister for Housing's portfolio on a regular or periodical basis?
- (2) For each publication -
  - (a) is it produced in-house or by an outside firm;
  - (b) what is the cost including artwork, printing and distribution;
  - (c) who is the target audience; and
  - (d) is a copy of each edition provided to the Library and Information Service of Western Australia?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

- (1)-(2) The information sought would require considerable research and the Minister for Housing has indicated he is not prepared to allocate resources for this purpose. If the member has a specific question about publications the Minister for Housing will be pleased to respond.

#### SUPERDROME - WA SPORTS CENTRE TRUST BOARD, MEMBERS

1342. Hon GRAHAM EDWARDS to the Minister for Sport and Recreation:

Can the Minister advise which members of the Superdrome board he has replaced and also advise who has replaced those members?

Hon N.F. MOORE replied:

The following members of the WA Sports Centre Trust board have been replaced -

Dr Norman Ashton  
Mr Denis McInerney  
Mr Tony Tilenni  
Mr Tim McComish

The following members have been appointed to the board -

Mr Ian Laurance - Chairman  
Dr Rod Rate  
Mr Shane Wagner  
Ms Sue Taylor  
Mr Terry McIntyre  
Professor Tom Stannage



**GOVERNMENT DEPARTMENTS AND AGENCIES - ASSET REGISTERS**

1361. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

Which departments or agencies within the Minister for Housing's portfolio areas do not maintain an asset register?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

None of the agencies within the Housing portfolio do not maintain an asset register.

**GOVERNMENT DEPARTMENTS AND AGENCIES - IN-HOUSE PRINTING EQUIPMENT AND FACILITIES**

1374. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Community Development:

Which departments and agencies within the Minister for Community Development's portfolio areas have in-house printing equipment and facilities?

Hon E.J. CHARLTON replied:

The Minister for Community Development has provided the following response -

The member's question is unclear. If he would care to be more specific, I would be pleased to respond.

**GOVERNMENT DEPARTMENTS AND AGENCIES - IN-HOUSE PRINTING EQUIPMENT AND FACILITIES**

1377. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

Which departments and agencies within the Minister for Housing's portfolio areas have in-house printing equipment and facilities?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

None of the agencies in the Housing portfolio have in-house printing equipment and facilities other than photocopy equipment and personal computer facilities.

**QUESTIONS WITHOUT NOTICE**

**SMITH, WAYDE - FINANCIAL REPORT, MANN REVIEW**

748. Hon A.J.G. MacTIERNAN to the Leader of the House representing the Premier:

- (1) What is the expected cost of the review by Mr Stephen Mann of Bentleys of the financial report of the member for Wanneroo?
- (2) Which department or agency is paying for the review?
- (3) Has the review commenced?
- (4) If not, why not?
- (5) When is the review expected to be completed?

Hon GEORGE CASH replied:

The Premier has provided the following reply -

(1)-(5) When the review is completed, we will account.

## MANGLES BAY MARINA DEVELOPMENT - APPROVAL

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

- (1) Has the Mangles Bay development, proposed by the Department of Marine and Harbours, been approved?
- (2) Will the Department of Marine and Harbours build this development or are other organisations involved; and, if so, what are they and what is their interest?
- (3) Are any other proposals being considered for this site?

Hon E.J. CHARLTON replied:

I have had some discussions about that situation, but to ensure that the information is up to date, I ask the member to put the question on notice.

## SMITH, WAYDE - 15 COURAGEOUS PLACE, LOAN

750. Hon A.J.G. MacTIERNAN to the Leader of the House representing the Premier:

I refer to the statement made by the Leader of the House on 9 November 1993 about allegations that the House had been misinformed in regard to funding for the purchase and development of land by the member for Wanneroo at 15 Courageous Place.

- (1) How was the \$570 000 loan in the name of the member for Wanneroo serviced from the time of the first advance on 15 July 1988 until the mortgage over 15B Courageous Place was discharged on 11 June 1990?
- (2) If the member for Wanneroo's liability under the loan was discharged on 11 June 1990 when Challenge Bank advanced \$65 000 in regard to 15B Courageous Place, why did the member for Wanneroo subsequently, on 6 November 1990, provide mortgages over four properties in order to secure the loan?

Hon GEORGE CASH replied:

The Premier has provided the following reply -

The member should put the question on notice as the review is not yet completed.

## REAL ESTATE AGENTS - SALES REPRESENTATIVES

*Licensing and Engagement Notification; Complaints, Responsibility*

751. Hon JOHN HALDEN to the Minister for Fair Trading:

- (1) Are real estate agents or sales representatives required to advise the Real Estate and Business Agents Supervisory Board of the details of the firm by which they are engaged?
- (2) Is the board the appropriate authority to receive complaints about the conduct of real estate agents or representatives?

Hon PETER FOSS replied:

- (1) Under the provisions of the Real Estate and Business Agents Act, licensees are required, within 14 days after commencing or ceasing to carry on business as an agent, to give the registrar notice in writing of that fact. Registered sales persons are required, within 14 days after commencing or ceasing in the employment of, or acting for or on behalf of, a licensee or developer, as the case may be, as a sales representative, to give to the registrar notice in writing of that fact and such further particulars as are prescribed or as are required by the board.
- (2) Complaints may be lodged with either the registrar of the board or the Department of Fair Trading.

**STATE GOVERNMENT INSURANCE COMMISSION - FINANCIAL  
ADMINISTRATION AND AUDIT ACT**

752. Hon JOHN HALDEN to the Minister for Finance:

- (1) What was the nature of the advice to the Minister that the State Government Insurance Commission was not bound by the tabling and extensive requirements of the Financial Administration and Audit Act?
- (2) Who provided that advice?

Hon MAX EVANS replied:

I do not understand that question, and I ask the member to put it on notice.

**PRISONERS - PUBLIC TRANSPORT**

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

- (1) Are prisoners or persons in custody transported in public transport facilities in company with fare paying members of the public?
- (2) Under what circumstances are such travel arrangements authorised?
- (3) Why are prisoners not transported in secure vehicles designed for that purpose?

Hon PETER FOSS replied:

The Attorney General has provided the following reply -

- (1)-(3) Adult prisoners in custody are not transported in public transport facilities unless an emergency arises through sickness; in those circumstances, the prisoner is transported by plane under escort. Juvenile detainees are transported by plane under escort from remote locations. These policies are consistent with longstanding Government practice.

**STATE GOVERNMENT INSURANCE COMMISSION - FINANCIAL  
STATEMENTS**

754. Hon JOHN HALDEN to the Minister for Finance:

Apart from the non-enactment of the Workers' Compensation and Rehabilitation Amendment Bill, were there any other reasons that the Auditor General declined to issue a certificate in regard to the financial statements of the State Government Insurance Commission?

Hon MAX EVANS replied:

Under the Companies Code, the SGIC must show in its accounts any event subsequent to the balance date of 30 June - what we call an event subsequent to balance date - that may affect the accounts, whether that be the workers' compensation changes or the privatisation proposal. The Auditor General has not declined to sign the accounts. He signs the accounts when they are finished. The finishing is subject to the balance completion date.

**BRADSHAW, DR WAYNE - MUNDARING ADDRESS**

755. Hon A.J.G. MacTIERNAN to the Leader of the House representing the Minister for Police:

With reference to the Minister's answer to question 603 of 3 November 1993, I ask -

- (1) Is the Police Department aware that the annual medical registration fee for Dr Wayne Bradshaw was paid by a cheque drawn on an account at the National Bank, Rivervale, more than a year after warrants were issued for Dr Bradshaw's arrest?

- (2) Is the Police Department aware that Dr Bradshaw wrote to the Medical Board in September 1993 notifying a change of address to 7 Council Road, Mundaring?
- (3) Is the Police Department aware that the Medical Board corresponded with Dr Bradshaw in January 1993 via 15A Courageous Place, Ocean Reef?
- (4) Is the Police Department aware that one of the occupants of 7 Council Road, Mundaring, advised a newspaper that she had an "arrangement" with Dr Bradshaw to forward mail?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. The Minister for Police has provided the following reply -

The Commissioner of Police has advised as follows -

(1) No.

(2)-(4) Yes.

#### ROADS - ALBANY HIGHWAY, SHEPPERTON ROAD-LEACH HIGHWAY, WIDENING

756. Hon T.G. BUTLER to the Minister for Transport:

- (1) When is the widening of Albany Highway between Shepperton Road and Leach Highway overpass scheduled to commence?
- (2) What is the estimated period of time for completion of this section?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) The commencement date for this project has not been scheduled, and is subject to funds becoming available.
- (2) The estimated period of time for construction is 15 months from the date work commences.

#### EMU POINT - COASTAL MANAGEMENT PROGRAM

757. Hon BOB THOMAS to the Minister for Transport:

Some notice of this question has been given.

- (1) Is the Minister aware of the report by Sinclair Knight of April 1993 which states that "because of the loss of seagrass meadows along the eastern end of Emu Beach, it is likely that the beach and Emu Point will continue to erode at unacceptable rates", and that "within 10 to 20 years the remaining houses west of the navigational beacon and a large portion of Cunningham Street could be lost"?
- (2) Is the Minister aware that in the 16 November 1993 edition of the *Albany Advertiser* the Albany Town Council was highly critical of the State Government for "walking away from funding for beach protection work at Emu Point"?
- (3) Is the Minister also aware that Mr Mike Paul from the Department of Marine and Harbours recently met with the Albany Town Council and advised it that the Government has not allowed for any funding for work at Emu Point in this year's Budget?
- (4) Can the Minister advise then which customer services and maintenance of marine facilities by the Department of Marine and Harbours will increase as a result of this year's Budget, bearing in

mind that the Minister initially advised the Estimates Committee that these services would decrease, but subsequently changed his position when in his answer to question without notice 635 he indicated that these services would increase?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) I am aware of Press reports relating to this matter.
- (3) Yes.
- (4) Funding for coastal protection works at Emu Point, Albany is appropriated as part of the department's coastal management program, not part of the maritime facilities program. The department is proceeding with detailed design of two offshore breakwaters which were recommended by the consultant as a means of stabilising the beach at Emu Point. This is being done in consultation with the Town of Albany. The issue of construction funding will be addressed when the Government and the council have both had an opportunity to consider the final plans. The department will review its capital works budget in January, at which time an assessment will be made, and where fundings allows, projects will be accommodated.

This issue is important. The situation has required this consultation and consideration by consultants because past funding of the project to deal with the problem in Albany has not produced a successful result. As the member will be aware, as a consequence of that we have reassessed the situation. If we had continued to make funds available under the previous plan, that money stood a chance of being wasted. Therefore, I took this issue up some months ago and had officers from the Department of Marine and Harbours and other interested people view the situation first hand at Albany. That earlier discussion has led to this action.

#### INTOUR PTY LTD - CENTRAL ABORIGINAL RESERVE, ENTRY PERMITS

758. Hon TOM STEPHENS to the Minister for Education representing the Minister for Aboriginal Affairs:

- (1) On what date did the Minister receive advice from the Crown Solicitor regarding the entry permits issued to Intour Pty Ltd for access to the central Aboriginal reserve?
- (2) Was that advice received in a written form or verbally?
- (3) On what date did the Minister receive advice from Aboriginal Affairs Planning Authority regarding the entry permits issued to Intour Pty Ltd for access to the central Aboriginal reserve?
- (4) Was the legal advice available to the AAPA made available in either written or verbal form to the Minister?
- (5) If yes to (4), on what date?

Hon N.F. MOORE replied:

I thank the member for some notice of the question. The Minister for Aboriginal Affairs has provided the following reply.

(1)-(5)

As the member may be aware, the matter of the entry permit issued to Intour Pty Ltd is currently subject to an action initiated in the Supreme Court by the Ngaanatjarra Land Council, which I

understand is listed for hearing again on 25 November 1993. With this in mind, the Minister is of the view that he is not able to provide the information the member is seeking.

#### STATE GOVERNMENT INSURANCE OFFICE - SALE, TAX COMPENSATION

759. Hon N.D. GRIFFITHS to the Minister for Finance:

- (1) Has the State Government successfully negotiated tax compensation for the sale of the State Government Insurance Office?
- (2) If so, what form will the tax compensation take; for example, will it be cash or debt offset?
- (3) If not, approximately what is the cost of the loss to the State as a proportion of the estimated proceeds for the sale of the SGIO?

Hon MAX EVANS replied:

(1)-(3)

No amount has been negotiated at this stage. As the member may recall from last June's Premier's Conference, it was agreed that the Federal Treasurer, Mr Dawkins, would provide compensation for the sale of only one body. The Government is looking at the sale of the R & I Bank, which is the larger of the two organisations. However, no amount has been decided regarding the R & I Bank at this stage.

#### STATE GOVERNMENT INSURANCE OFFICE - SALE PROCEEDS, SGIC RETENTION

760. Hon N.D. GRIFFITHS to the Minister for Finance:

- (1) Will the SGIC keep all of the proceeds of the sale of the SGIO?
- (2) If not, what proportion will the SGIC keep?

Hon MAX EVANS replied:

(1)-(2)

I understand that a proportion of the proceeds will be retained by the SGIO to pump up its solvency rate as a ratio of total premiums and to strengthen the balance sheet. The balance will be retained by the SGIC, which invested \$100m in the organisation, and that amount has been reduced to \$35m. Certainly an amount of money will stay with the SGIC for money it has invested. This will be part of the deal and the balance will go to the SGIC.

#### RAILWAYS - BUNBURY, NEW STATION STUDY

761. Hon DOUG WENN to the Minister for Transport:

Will he advise the House what study, research and findings were used to arrive at the decision to shift the Bunbury Railway Station from Wollaston to the central business district area?

Hon E.J. CHARLTON replied:

I cannot refer to that off the top of my head. However, I will certainly make that information available to the member, particularly the report and studies conducted. The member will probably be aware of the study which has been ongoing for some time. This has assessed the situation and the various options available. The member is probably aware of the option to bring the station into Blair Street, and another to leave it where it is. Another was a shift to Clifton Street. The recommendation in the short term at least is for the station to remain where it is. The plan is ultimately to shift the station to the other end of town. That report has been made available. I will provide the information regarding that matter. The railway reserve in Blair Street will be made available for other use.

**RETAIL TRADING HOURS - REVIEW, NORTHERN TRADERS**

762. Hon TOM HELM to the Minister for Fair Trading:

- (1) Can the Minister inform the House why submissions from retail businesses above the twenty-sixth parallel are not to be considered in the forthcoming Statewide review of retail hours?
- (2) If they are not to be considered because business above the twenty-sixth parallel is deregulated, is the retail community to assume that the review is not a review but merely a process for justifying the Minister's personal views on deregulation?

Hon PETER FOSS replied:

(1)-(2)

I am not aware of them not being considered. The Act being reviewed is the Retail Trading Hours Act 1987. That does not apply above the twenty-sixth parallel. If anybody wants to make suggestions about the Act I am quite happy for them to do so.

**HEALTH DEPARTMENT OF WESTERN AUSTRALIA - PILBARA AND KIMBERLEY HEALTH REGIONS, COMBINED DECISION**

763. Hon TOM HELM to the Minister for Health:

Can the Minister advise whether the rumour is true that the Pilbara and Kimberley health regions are to be combined?

Hon PETER FOSS replied:

I am not quite sure what the member means by "is the rumour true". I am not sure there is a rumour. Whether those health regions will be combined has not yet been decided. We are looking at all regions.

**RAILWAYS - BUNBURY, NEW STATION STUDY**

764. Hon DOUG WENN to the Minister for Transport:

- (1) Have costings and plans been drawn up for a new railway station in Bunbury?
- (2) Is the Minister referring to the land the station is now on, or is he referring to the rail strip which runs along Blair Street?

Hon E.J. CHARLTON replied:

- (1)-(2) I am referring to the Blair Street section. There are two sections in principle. I am not referring to the current railway station. No decisions have been made on the new station yet. They are part of further consideration, studies and consultation on projects with the Bunbury City Council and other local groups.

**RAILWAYS - BUNBURY, BLAIR STREET STRIP VALUATION**

765. Hon DOUG WENN to the Minister for Transport:

With regard to the Blair Street strip, I notice in today's Press that the Minister has put a price on it. How did he arrive at that price?

Hon E.J. CHARLTON replied:

That valuation was assessed as part of a report for, I think, \$750 000 which might have been quoted. I cannot give the detail. However, I will certainly make the details available to the member of how it was assessed.

**QUESTIONS - MINISTER FOR HEALTH, ANSWER**

766. Hon DOUG WENN to the Minister for Health:

Yesterday I gave the Minister a copy of a question I was wanting to ask. Has he obtained the information I was seeking?

Hon PETER FOSS replied:

I tried to have the information available for today. It is a little complicated; because of the way the question is framed the answer would be "none". I will try to give him an answer which will give all the background, not just the information he asked for.

The PRESIDENT: Order! When asking questions in this place it is not a bad idea if the member asks a question. If the record shows nothing it is not very enlightening. I will let it pass for the moment.

**RETAIL TRADING HOURS - DEREGULATION, ECONOMIC LOSSES**

767. Hon KIM CHANCE to the Minister for Fair Trading:

Is the Minister aware of concern by pharmacists that a further deregulation of trading hours would cause them severe economic losses and even the closure of some high cost services relied on by the public such as all-night services? If so, has the Minister spoken to the Guild of Pharmacists about this problem?

Hon PETER FOSS replied:

I am aware of it, although I have not spoken to the guild because I have referred all those concerns to the present review of the Act.

**EMU POINT - COASTAL MANAGEMENT PROGRAM**

768. Hon BOB THOMAS to the Minister for Transport:

I refer to the question I previously asked about the coastal management program run by the Department of Marine and Harbours. In the past, capital works under that program have been funded 75 per cent by the department and 25 per cent by the local government authority. In the case of the Emu Point works, the department has now asked the Albany Town Council to contribute its 25 per cent up-front to pay for the survey and design work. Can the Minister assure me that once that work has been done and a program has been established, the Department of Marine and Harbours will contract to the full amount it would have done under the previous arrangements?

Hon E.J. CHARLTON replied:

We will need to wait and see what the plan and the cost will be. I have heard a considerable amount of fairly extreme opinion about which way this issue should be addressed. Opinions have been expressed about dealing with it in a physical way by making funding available to put in a structure. Another opinion has been expressed - I am not referring to the consultant's opinion - about a long term plan to get nature to take its course to enable the Emu Point area to be restored to the way it used to be. Some consider that the problem has been caused by man's intervention, if one likes, in the way some of the development has taken place. A number of opinions have been expressed. However, we want to wait for the consultant's report and make sure we get it right this time.

**EMU POINT - COASTAL MANAGEMENT PROGRAM**

769. Hon BOB THOMAS to the Minister for Transport:

Did the Minister say that one of the options the department is considering is to allow nature to take its course? If so, does that involve removing the groin built about three years ago, or does it mean leaving the groin there and allowing nature to take its course and redistributing all that sand? The freehold residents in Cunningham Street are extremely concerned that another storm like the one in 1984 will result in their properties being undermined by the erosion.



Hon E.J. CHARLTON replied:

The member is justified in his concern. Certainly the information has not been relayed to me about what action is being considered. From the comments that have been made, the department and the consultants have the view that the groin should remain and other work be done. As I said before, any decision made to implement any recommendation will require further discussions with other people in Albany in an endeavour this time to get it right for the long term.

**ROADS - POLLUTANTS CONTROL**

770. Hon SAM PIANTADOSI to the Minister for Transport:

What action will the Minister take to ensure that pollutants from Western Australia's road systems will not penetrate the soil and pollute the ground water, wetlands and river systems?

Hon E.J. CHARLTON replied:

I do not know whether the member has a particular area or road in mind.

Hon Sam Piantadosi: There is no particular road.

Hon E.J. CHARLTON: As with all planning, the Main Roads Department takes that properly into account.

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