

Legislative Council

Wednesday, 21 November 1990

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

PETITION - DUCK SHOOTING

Prohibition Legislation Support

Hon T.G. Butler presented a petition bearing the signatures of 1 010 citizens of Western Australia urging Parliament not to declare a duck shooting season for 1991 and to legislate for the prohibition of any future duck shooting in this State.

[See paper No 767.]

PETITION - DUCK SHOOTING

Controlled Season Support

Hon P.G. Pandal presented a petition from 787 citizens of Western Australia supporting the continuation of controlled duck hunting.

[See paper No 768.]

MOTION - GOVERNMENT AGENCIES

Business Transactions - Documents Tabling

HON MAX EVANS (North Metropolitan) [2.37 pm]: I move -

That the Leader of the House be required to table not later than three sitting days from the day on which this order is passed, the following documents relating to the Government Employees Superannuation Board and the State Government Insurance Commission and others -

1. The 30 June 1986 valuations of the 50 per cent interest in the Perth Technical School site (\$17.5 million) and the David Jones site (\$16.5 million), total of \$34 million, referred to in the S.B. Investment Trust report to the Corporate Affairs, and all minutes and correspondence relating thereto.
2. The 30 June 1987 valuations of the 50 per cent interest in the Perth Technical School site (\$30 million) and the David Jones site (\$27.5 million) (or agreed valuation) referred to in the S.B. Investment Trust report to the Corporate Affairs, and all minutes and correspondence relating thereto.
3. The valuations of the Perth Technical School site and the David Jones site on or about 23 October 1987 (referred to in the media at \$208 million) in respect of the purchase by the SGIC of the 25 per cent interest of L.R. Connell in the respective sites, and how the amount paid of \$30 million was calculated, and the board minutes and all correspondence, warrants and vouchers relating to the contracts.
4. All other sworn valuations commissioned by the Government or any of its agencies to do with the valuations of the Westralia Square site and/or development and the Central Park site and/or development, particularly those effected between 30 June 1987 and 30 June 1990.
5. The financing agreement, minutes, and correspondence between the GESB or the SBIT and Bond Corporation for which Bond Corporation received \$11 million for "Waiver and Benefit of Financing Agreement" by Esjay Shelf Co (No 209) Pty Ltd.
6. All the minutes, contracts, correspondence, warrants, and vouchers of the GESB or the SBIT and the SGIC in respect of the purchase of the Central Park site and its development and the sale and repurchase of the Westralia Square site and its development inclusive of agreements to underwrite the letting of office space by the Government and/or its agencies and commitments or undertakings to invest in any property trust being floated or

associated with any of the purchasers or vendors of the said sites between the period 18 July 1987 and 30 June 1990.

7. The minutes, correspondence, warrants, and cash payment vouchers of the GESB or the SBIT in respect of the financing agreement dealing with Esjay Shelf Co (No 209) Pty Ltd for which Esjay received \$11 million for "Waiver of Benefit of Financing Agreement".
8. The minutes, contracts, correspondence, warrants and vouchers of the GESB or the SBIT in respect of the "Waiver of Benefit Project Rights" of \$1.5 million paid to Bond Corporation for forgoing its role as project manager.
9. The minutes, contracts, correspondence, warrants and vouchers of the GESB or the SBIT in respect of the "Waiver of Benefit Project Rights" of \$1.5 million paid to Esjay Shelf Co (No 209) Pty Ltd.
10. The minutes, contracts, correspondence, warrants and vouchers in respect of "Release of Obligation with Respect to Joint Venture Project Costs".
11. The agreements, documents, minutes and correspondence, vouchers and warrants of the SGIC or the GESB relating to the \$9.5 million paid in November or December 1987 to L.R. Connell in respect of the put option to buy back his 25 per cent interest in the Perth Technical College site and the David Jones site.
12. The signed put option documents in respect of the \$5 million paid by Esjay Shelf Co (No 209) Pty Ltd and/or Mr Warren Anderson to GESB for 50 per cent of the Central Park site; and copy of the receipt for the \$5 million, the date that the \$5 million was received and the date banked to the GESB bank account.
13. The documents, minutes, correspondence, date of payment and copy of receipts and date banked, relating to the Midtown debt of \$5 066 659.77 owing to the GESB or the SBIT subsequently assumed by Esjay in an amendment to the joint venture agreement on 15 February 1989.
14. The valuation of the Central Park project of \$140 million on 30 June 1989 reported in volume one of the Auditor General and the revised valuation of \$145 million.

This motion is to follow up some tabled papers that were received on 1 May 1990, when they were kindly tabled in this House by the Leader of the House, in respect of many business transactions carried out by agencies of the Government. We are now seeking additional information, which we believe should be made public, about some of the business transactions carried out by these agencies, which are responsible to taxpayers for the moneys they have expended. It is for this reason that we are requesting these specific documents, which we believe can be obtained without very much trouble as most of them should be readily available from the Government agencies. It is not as voluminous an amount of information as was required in the motion to table documents moved by me in December last year. We look forward to receiving these documents from the Leader of the House within the time specified in the motion, so that we can make a further comment on them.

Debate adjourned, on motion by Hon Fred McKenzie.

MOTION - TOWED AGRICULTURAL IMPLEMENTS REGULATIONS

Disallowance

HON MURRAY MONTGOMERY (South West) [2.46 pm]: I move -

That the Towed Agricultural Implements Regulations 1990 published in the *Government Gazette* on 28 September 1990 and tabled in this House on 1 November 1990 be, and are hereby, disallowed.

In moving this motion I shall outline some of the history of these regulations. The matter began in 1985 before my colleague in another place, the member for Wagin, entered

Parliament. When he entered Parliament in 1987 he was involved in discussions regarding the framing of the regulations. A draft copy was devised into which the WA Farmers Federation general council, of which I was a member, had some input. The issue seemed to die away for some time and it appeared that it had been put into the too hard basket. However, the regulations resurfaced at the beginning of this year due to the involvement of my colleague in another place and other people outside the Parliament. Without any warning at all the regulations were gazetted even though the final draft had not been seen. The first most members of Parliament would have known about them was when the regulations were tabled on 1 November this year.

Interestingly, farmers were being stopped for contravening the regulations prior to 1 November, which indicates that the changes had been made even though they had not come into force. In practice they had come into force before 1 November as the WA Farmers Federation received some calls from its membership indicating that the new regulations had been enforced.

I examined the creation of these regulations and found that no apparent consideration had been given to how they would be enforced. Also, farmers did not even have the opportunity to implement the machinery modifications required under the regulations. As far as I have been able to ascertain, no publicity has been given to this matter except for a Press statement that was issued yesterday.

The National Party does not oppose the safety aspects of these regulations. However, the implementation of some of them is impractical. For instance, there has been no phasing in period or no indication given that these regulations would come into force. It will certainly be interesting to listen to the comments of the Minister of Police because the regulations are in force and farmers have not complied with those relating to the towing of agricultural implements. Therefore, they may not be covered by public liability insurance because they do not conform with the regulations. It would be interesting to see where they stand in that matter.

Regulation 6 relates to stop lights on towed implements. Most tractors do not have stop lights. Therefore, farmers will have to modify their tractors which will, in some cases, be very expensive because many tractors have not been constructed in a way that makes them easily modified or to accept apparatus that will activate stop lights.

Regulation 14 relates to safety chains and a safety locking device. The definition of a safe locking device is very interesting. It can be almost anything anyone wants it to be. Subregulation (2) states that a safe locking device should consist of a bar held together by a split pin or a spring-loaded clamp. A bar can be a piece of steel and a spring-loaded clamp is open to anybody's interpretation. What it means is that the definition needs clarification.

Regulation 12 relates to tyres used for agricultural purposes not having a load rating figure on them. Some load rating figures are available from manufacturers but there are some discrepancies in the way they can be interpreted because of the different ways tyre manufacturers have printed them out on graphs.

Another regulation relates to the towing of field bins and the use of escort vehicles and in many cases the implementation of that could be impractical. We understand from our reading of it that, although assurances were given that no new combinations would be created, new combination No 3 has been created in these regulations. Discussions have taken place on this matter and I asked to have them taken to the Joint Standing Committee on Delegated Legislation. In that combination No 3 reference is made to the use of mirrors. Even though a person may have a vision, the regulation states that there must be mirrors wider than the implement being towed.

Hon Max Evans: Incredible!

Hon MURRAY MONTGOMERY: Even though the person may be able to see behind him or her, regulations lay down requirements for mirrors.

Yesterday when I gave notice of my motion to disallow these regulations, the Minister decided, for reasons known only to himself, to issue a Press release without knowing the reasons for my motion. That is interesting because the Press release stated that the motion would cause great inconvenience to the rural community. The truth is that the regulations in their present form create inconvenience. I am not suggesting for one minute that the

regulations were not implemented for safety reasons; however, the implementation of some of them is impractical. This morning I was pleased to have discussions with the senior police officers who drafted the regulations. They have gone away to discuss the points that were put to them to see whether we have legitimate complaints about the impracticality of some of the regulations.

Debate adjourned, on motion by Hon Fred McKenzie.

GOVERNMENT RAILWAYS AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Tom Stephens (Parliamentary Secretary), read a first time.

Second Reading

HON TOM STEPHENS (Mining and Pastoral - Parliamentary Secretary) [3.00 pm]: 1 move -

That the Bill be now read a second time.

The purpose of this Bill is to enable rationalisation of accounting and financial control arrangements between Westrail and the State Treasury to improve both accounting efficiency and the management of Westrail's working capital requirements. The key change involved will allow Westrail to operate one major bank account at Treasury for both revenue and expenditure, and reduce the number of bank accounts it is required to operate at Treasury. It provides for funds of Westrail, including parliamentary appropriations, business income and borrowings, to be paid into and out of an account at Treasury to be known as the Western Australian Government Railways general fund account. The legislation is modelled on similar provisions applying to Transperth through the Metropolitan (Perth) Passenger Transport Trust Act. Most other statutory authorities deriving trading income also operate with a major bank account for both receipts and payments, and this is normal practice for private commercial business enterprises.

The Government's objective is to realise benefits for Westrail and the State through the elimination of unnecessarily complicated accounting work and wasteful duplication of effort arising from the present expenditure implesting system and the operation of multiple bank accounts. The new procedures utilising one major bank account will also give Westrail greater responsibility for, and control over, the management of its cash and working capital resources. The greater responsibility and control provided will not diminish Westrail's accountability to Government. Both the Under Treasurer and the Director General of Transport have been consulted and have endorsed the proposals to provide more progressive and efficient accounting and financial control arrangements.

Although a major aim of the amendment Bill is to reduce the number of Westrail bank accounts, with Treasury advice provision has been made to enable Westrail to hold foreign currency funds in offshore accounts. If used at all, such accounts would only be operated on a short term basis to facilitate the arrangement of protection against adverse foreign exchange rate variations on overseas purchases. These arrangements would be subject to specific Treasury approval.

Transitional provisions are included in the Bill to transfer any moneys in the accounts to be closed to the new general fund account. The amendment Bill was also drafted with the aim of simplifying and modernising the provisions of the Government Railways Act relating to Westrail's borrowing powers and associated guarantees. However, after further consideration by the Minister for Transport, the Treasury and the Crown Law Department, it was decided that the simplified provisions may be too open ended and, therefore, amendments to the amendment Bill are now proposed to enable the present borrowing power and guarantee provisions to be retained. The significant change that has been introduced through these amendments to improve accountability for guarantees is a requirement for the Treasurer to inform Parliament when guarantees are given and to make copies available if requested.

The Bill provides for implementation of the changes from a date to be fixed by proclamation. Although the most convenient starting date would coincide with the commencement of a

financial year, the changeover can be made from the commencement of any calendar month and the intention is to make the changeover as soon as practicable after the amendment has been considered and passed by the Parliament.

Financial benefits in the order of \$150 000 to \$300 000 per annum are anticipated from the improved efficiency in funds management, and the earlier the realisation of these can commence, the better. It is therefore proposed that the provisions of the legislation be implemented at the first convenient opportunity to contribute towards the improved cost efficiency and competitiveness of Westrail in accordance with the aims of the Government's land transport policy.

The amendment to the Act reflects a clear purpose; that is, to improve Westrail's accounting and financial arrangements with Treasury and hence its economic efficiency and commercial competitiveness.

I commend the Bill to the House.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

EMPLOYERS INDEMNITY POLICIES (PREMIUM RATES) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon John Halden (Parliamentary Secretary), read a first time.

Second Reading

HON JOHN HALDEN (South Metropolitan - Parliamentary Secretary) [3.05 pm]: I move -
That the Bill be now read a second time.

It has been a standard practice for many years under both the current Workers' Compensation and Assistance Act and the repealed Workers' Compensation Act, for the Premium Rates Committee to determine the recommended premium rates in respect of all employers' indemnity risks, including a component for common law. The Premium Rates Committee is a statutory independent body chaired by the Auditor General and is responsible for determining categories of businesses, each with a different insurable risk, and the recommended premium rate for each category. The premium rating calculations are based on statistics returned on an annual basis to the commission by each of the approved insurers.

Recent legal advice has cast serious doubt on the ability of the Premium Rates Committee to legally set a premium rate for workers' compensation policies which incorporate a common law component. The legal advice stated that it would be inappropriate simply to amend the Workers' Compensation and Assistance Act and recommended that provisions relating to common law in this Bill be placed in a separate Act. A separate Act will isolate common law provisions and obviate the need to amend the Workers' Compensation and Assistance Act which could disturb any consistency in the interpretation of the Act. The need to formalise this arrangement was initiated by the Premium Rates Committee and is strongly supported by the Workers' Compensation and Rehabilitation Commission.

The Bill has been developed on the basis of policy formulated by the Tripartite Labour Consultative Council. I emphasise that the proposed legislation will in no way increase the premiums paid by employers as its effect is merely to give legal status to an arrangement which has long been in operation. An integral requirement of the Bill is for all insurers to provide the Premium Rates Committee with the information necessary to set a separate common law rate.

In conclusion, this Bill is necessary to formalise a longstanding arrangement that recognises the practice of employers voluntarily covering themselves for common law claims related to workplace injuries. The provisions contained in this Bill have been developed through consultation with the Premium Rates Committee, the independent body responsible for the setting of premium rates. The input of this committee's knowledge and experience of the insurance aspects the Bill is designed to cover will ensure the future effective and efficient setting of premium rates for employers' indemnity policies.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Peter Foss.

MOTION - SELECT COMMITTEE ON GOVERNMENT SURVEILLANCE

Appointment

Debate resumed from 14 November 1990.

HON P.G. PENDAL (South Metropolitan) [3.08 pm]: I support the motion moved recently by Hon Peter Foss for a Select Committee to inquire into the broad question of alleged Government surveillance in Western Australia. No-one who deals with this matter would be under any illusion that we are dealing with anything other than a matter of the utmost gravity.

Before dealing with the reasons that a Select Committee should be appointed, I will deal with the issue raised by the Government about why the Select Committee should not be appointed. We are being exhorted to take the allegedly responsible role of not appointing a Select Committee of this House when the Government, through the Premier, has made a commitment to appoint an all-embracing Royal Commission into a variety of matters. If and when confirmation is received that a Royal Commission with adequate terms of reference will be appointed and if and when it is confirmed that an appropriate and independent Royal Commissioner from out of State has been appointed, the time may be appropriate for this House to put aside its inquiries to allow the investigation by the Royal Commission to occur.

Hon T.G. Butler: Are you giving the Government the terms of reference for a Royal Commission?

Hon P.G. PENDAL: Until that point is reached we have no yardstick by which to measure the Government's sincerity in the matter. Members are well aware that for something like two or three years the Opposition and, more recently, other people in this community have been asking for an all encompassing and wide ranging Royal Commission into what has become known as WA Inc, but that fell on deaf ears. For years now the Government has seen no upside; the Government has seen no persuasive argument to make it take the step that an overwhelming number of people in this State believe it should have taken a long time ago. That disposes of the argument that says we must abandon this quest for a Select Committee because the Government has offered us a Royal Commission. The Government, so far, has offered us very little.

For those who read the Premier's Press statement it is significant to note that in the first paragraph reference was made to a Royal Commission which would look at alleged corruption in Government business activities - and I applaud the Government for that - and which would also look into the illegal activities of other related matters - and again I applaud the Government for that. The Premier's Press statement confirms that the Government will not extend the references of the Royal Commission to cover those acts of propriety or impropriety which have been committed over the last seven years.

Hon J.M. Brown: For 10 years.

Hon P.G. PENDAL: The promise of a Royal Commission has quite ingeniously set aside any suggestion that it will inquire into matters of impropriety on the part of the Government. For example, an act of impropriety would be any action which led a senior Minister of the Government to give us a verbal undertaking prior to the 1989 election that there was no guarantee in respect of the petrochemical plant. We accepted the assurance given that no guarantee was involved; of course, in April 1989 we found that assurance to have been a tissue of untruths. Those untruths may not represent illegality and they may not represent corruption on the part of Ministers, but by no stretch of the imagination can members argue that they do not constitute the gravest form of impropriety; that is, telling untruths to the people of Western Australia to such an extent that it probably changed the outcome of an election. That is the reason that I and all members on this side of the House will keep an open mind until we see the terms of reference that embrace not only what the Premier has said, but what the Premier has not said; that is, terms of reference that embrace the hundreds of activities of and decisions made by this Government which by any yardstick anywhere else in a similar community would constitute the gravest form of impropriety that it is possible to allege.

I said at the outset that this is a matter of the utmost gravity. I ask members to understand the terms of reference that have been drafted. It is bad enough that we have had to tolerate for seven years all sorts of misdeeds to which I have referred; it is bad enough and crippling enough for a State now in the grip of recession to have to find its way out of a debt of at least \$850 million that we know has been lost; and it is bad enough that we have been told blatant untruths that cost a man his job in Government about whether guarantees worth hundreds of millions of dollars were given for a non-existent petrochemical plant. All those things are bad enough, but I put it to members that we have been visited now by a level of conduct and behaviour that puts even that sort of activity into a lesser category.

We have gone to the point in this State, as can be seen from the evidence given at trial, to a new depth of conduct, the like of which was not even suspected by the Government's worst enemies one, two or three years ago.

Hon J.M. Brown: Are you talking about the Stirling City Council?

Hon P.G. PENDAL: Yes.

Several members interjected.

The PRESIDENT: Order!

Hon P.G. PENDAL: As I reminded members opposite yesterday, the truth will come out -

Hon J.M. Brown: I hope so.

Hon P.G. PENDAL: - and we will find out how many Labor people have been involved, whose names will satisfy Hon Jim Brown. It is that new depth to which the Government has sunk that has brought us today -

Hon J.M. Berinson: Are you saying there was evidence in that trial supporting your current accusations?

Hon P.G. PENDAL: I am saying that there was evidence in the trial and there have been subsequent disclosures by the media that suggest a level of conduct has now being practised in this State to the point where the Government may well have institutionalised and endorsed the actions of the bugging of private conversations. That is one of the things that the Select Committee will set out to ascertain, and I refer members to the first term of reference - the fact that that question even needs to be asked shows the depth to which we have plummeted - which is to examine whether the so-called "blue file" indicates or refers to private inquiry work done by Mr Robert Smith on the part of the official Government of this State. Mr President, if that does produce affirmative answers it will show that the Government has been party to that systematic and illegal surveillance and phone tapping of selected people of this State.

Hon J.M. Berinson: By whom?

Hon P.G. PENDAL: I suggest by someone from the Labor Party who leaked it to the *Sunday Times* about a fortnight ago and Hon Joe Berinson can draw his own conclusions as to who that might be.

One of those allegations was that, apparently, not content with the prospect of bugging people's telephones, another form of electronic surveillance was undertaken, which led to the creation of the tape which is now part of the "Burke file". The astonishing thing about this taping revelation is the way in which in the past two weeks it has been accepted as the norm and passed off as some sort of joke in media and political circles. "We are told that this involves Mr Terry Burke. We are told that Mr So-and-so bugged Mr So-and-so; isn't that a joke? We are also told that bugging a person under those circumstances is not illegal." If the Select Committee does not look into that matter the Royal Commission ought to because the Listening Devices Act in this State quite specifically does not permit a person to secrete a tape recorder on himself or herself to tape the conversation of another person when that taped conversation is to be communicated to a third person.

The Listening Devices Act was passed by this Parliament in 1978. It would be interesting to know the number of prosecutions launched as a result of that legislation. Government members do not know and few media people know.

Hon J.M. Brown: But you know!

Hon P.G. PENDAL: Yes, because I have a copy of the Act in front of me. Section 4 of the Listening Devices Act states -

(1) A person shall not -

(a) use any listening device to overhear, record, monitor or listen to any private conversation to which he is not a party; . . .

Hon J.M. Berinson: Who says that the tape you are referring to did not involve people who were not parties?

Hon P.G. PENDAL: We are sure it involves someone else.

Hon J.M. Berinson: The member knows more about the tape than I do. That would not be hard, because I know nothing about it. What is he suggesting about that tape?

Hon P.G. PENDAL: I am suggesting that it represents the most serious offence possible against the Listening Devices Act.

Hon J.M. Berinson: Who are you alleging this against?

Hon P.G. PENDAL: It is not my position, as I have already said, to do that. If the Attorney General or the police have not investigated whether an offence has been committed by the person, already named by the media, under the Listening Devices Act then the Attorney General has not been doing his job, which is part and parcel of the complaint made by the Opposition in this and the other House for years now. As Hon Peter Foss has said, on many occasions when we say something the Attorney General says to us, "Prove it." We are not in the business of having to prove those things.

Several members interjected.

The PRESIDENT: Order!

Hon P.G. PENDAL: The task of an Opposition, a vigilant media and other people in our society is to take information to the Government that on the face of it warrants further inquiry. It is then the responsibility of the Government to say that it agrees it is a serious matter which will be investigated. But no! As we have been told so often in this House, the onus is on members on this side to be policemen as well as the official Opposition. That responsibility has often resided either with the Opposition or the media in this State.

Hon J.M. Berinson: The member is not accepting explicit police reports.

Hon P.G. PENDAL: I am saying to the Attorney General that under section 4(b) of the Listening Devices Act it is an offence of the most serious kind for a person to communicate or publish the substance or meaning of any private conversation overheard, recorded, monitored or listened to whether a party to the private conversation or not. I am pleased that while I have been talking the Attorney General has at least taken the time to call for a copy of the Listening Devices Act to perhaps acquaint himself with it for the first time. The words I have outlined highlight the sense of jocularity that I have heard during the past fortnight from people who have said, "Did you know that so-and-so bugged so-and-so with a tape recorder and, by the way, that is not illegal?" I would like to know whether the police have investigated that matter. This shows a new tolerance level on the part of people in Government.

Hon J.M. Berinson: It shows the member has not studied the Act or the report of the police on this matter.

Hon P.G. PENDAL: I certainly have not studied the blue file, if that is what the Attorney General is saying.

Hon J.M. Berinson: Neither have I.

Hon P.G. PENDAL: If the Minister is saying that that file is not worth investigation simply on the ground that I have not read it, that is absurd!

Hon J.M. Berinson: I did not say that at all. The member must have a weakness, because he has to misrepresent me in that way.

Hon P.G. PENDAL: Apparently, from the role of Mr Terry Burke in all of this, there are a few other people who played roles in that shadowy area of surveillance either by telephone or tape recordings which go to the heart of what Hon Peter Foss is moving for. I asked

questions in this House a few days ago that are also part of the reference written by Hon Peter Foss. On Tuesday, 13 November I asked a question in this place of the Minister for Police which is recorded at page 7159 of the weekly volume of *Hansard* as follows -

Will he investigate or refer to the appropriate authorities for investigation the circumstances of payments made to Robert Smith for bugging the Aslan phone to determine whether such payments were made not by the person who hired Mr Smith but rather were included in payments made by the Government for Mr Smith's services?

The Minister for Police gave at first glance what appeared to be an ambiguous answer when he said the following -

My strong view is that these matters are not for me to investigate -

And I agree with him -

- but are matters which should be and are being investigated by the police.

I could scarcely believe my ears when I heard that answer. A little later, question 805 on page 7162, I asked the following question -

Can the Minister clarify or confirm his earlier answer that the police are already investigating the possibility that the bugging of the Aslan telephone by Robert Smith was carried out at public expense?

The Minister's clarification was -

The member is trying to put words into my mouth.

I immediately assumed that we were going to get a denial, but the Minister continued -

In my earlier answer, I said that the matters are being investigated by the police, and if during the course of that investigation the police view those matters as pertinent they will be investigated.

I repeat that he said the matters were being investigated by the police. That is not only a serious question on my part but a serious admission by the Minister. I have heard from other channels since then that what the Minister said he preferred not to have said, or might have thought he was saying something else. When all is said and done, it is not the job of the Opposition to give the Minister more than two goes to get it right, yet that is precisely what occurred, and even at the second go the Minister said -

... I said that the matters are being investigated by the police ...

I want to know the outcome of that inquiry. I would also like to know whether the Minister sought to have the story withdrawn from *The West Australian* before it appeared in the second edition that night. I am pleased that *The West Australian* took absolutely no notice of him. Those answers are clear to any member, and certainly to me. Clearly the Minister was saying - and they were his words, not mine - that the police were investigating whether Mr Smith received payment for the Aslan phone bugging from the Government rather than the person who hired him to perform that illegal act. I am told there is a simple way of checking; that is, one checks Mr Smith's accounts to find out whether he was paid for the illegal work done at the Aslan residence.

It may well be that we should have documents tabled in this House by the method Hon Max Evans has moved today, by the Select Committee itself, or by the Royal Commission. We should have tabled and examined documents from the Ministry of Premier and Cabinet or the Treasury Department to see whether any payments were made to Mr Robert Smith for the purposes of the Aslan home phone bugging.

The second thing I want to know - and it is part of the terms of reference - relates to the tape recorder being secreted on Mr Terry Burke. That is directly related to Mr Smith. Why? Because we know from the trial that Mr Smith was brought in as a tutor to Mr Burke to teach him the mysteries of working a tape recorder. I want to know which Ministers learnt of the illegal activity in May 1987. We are told by a reputable television journalist that that is when certain Ministers found out that Mr Burke had been engaged in this very "funny" activity of bugging another person's private conversation. We are told that a Perth TV journalist reported a conversation with a serving Cabinet Minister, claiming that the Minister admitted

that he and other Ministers knew of the allegation as early as May 1987. If we can believe the Ministers in this House, they knew nothing of it. The Leader of the Opposition has asked the three Ministers in this House, and we are assured, and so far we accept that assurance, that the three Ministers in this House learnt of that illegal tape recording at the time when most of the rest of us learnt of it, and that was through the *Sunday Times*.

That narrows the field down a little; it narrows it to perhaps 15 other people who, according to the allegations of the TV journalist, knew in May of 1987 that this illegal activity had taken place. We want to know who those Ministers are. We want to know whether those Ministers and members of Parliament met in order to plan the way in which they would use - or misuse - those conversations in the months ahead. I am sorry I cannot ask my friend Hon Jim Brown this. We also want to know why, if as a result of the tape recording certain Ministers learnt of certain alleged corrupt acts at the Stirling City Council, they took it upon themselves to do nothing. It was not the Ministers who exposed this in November 1990; it was the media. For three and a half years, from May 1987 until November 1990, we have been told that Ministers of the Crown knew of a secret tape recording, knew of an alleged offence against the Listening Devices Act, sat down, had meetings about it, but did nothing about such a serious offence.

Members know, because it is in one of the documents before us, that Ministers take oaths of office, and one of the things they are sworn to do is to uphold the law. They are not there to break the law; they are there to do what any other citizen has a responsibility to do. I doubt very much whether Hon Joe Berinson would condone the practice of anyone in a high place, knowing of a possible offence, doing nothing about it. I do not believe that he, with all the complaints we have against him - and they are many - would condone that sort of disgraceful and probably illegal activity.

My final question concerns the time at which Government Ministers raised this matter with the police. That seems to me to be important to the scheme of things. When was it that the Government initially raised this matter once it came before it? We are told, for example, that the file originally came into the possession of Mr Bull via his Federal counterpart. It would be of more than academic interest to know who received the information first. Was it the Commissioner of Police, who then made the decision to put it in his office safe, or did Ministers of the Crown come by that information first, and having come by the information, what did they do to convey to the Minister for Police or to the Commissioner of Police that they had heard a tape which may have been made illegally, and one which contained suggestions and allegations of bribery at the Stirling City Council?

Having asked that question, one is entitled to ask how serious the Government is in appointing a Royal Commission to find out in January or February of 1991 information which it could have found out in May of 1987? Surely to goodness information one collects a day, a week or a month after a possible offence, by its very nature, will stand up better in court than information gathered three and a half years later, or possibly four years later by the time those people appear before the Royal Commission? The quality of information must have suffered, and people's memories, conveniently or otherwise, will be impaired after a lapse of four years.

The story goes on. I asked yesterday a question of the Minister, subsequently put on the Notice Paper, about the prospect of Mr Robert Smith serving one of his terms in prison either in Greenough or in Geraldton in a flat, not in the prison at all. I do not blame the Minister for asking me to put that question on notice, and that is what I have done. I did not ask that question because I had nothing better to do with my time, and I did not ask it without a reasonable belief that what I was asking had actually happened. Think of the implications of that! If a person is sent to gaol for a crime, but does not go to gaol at all but occupies a flat in Geraldton - which is my understanding of the matter - a lot of explaining must be done. I have heard about home detention, but I have yet to learn that we have it in Western Australia at the moment.

Hon J.M. Berinson: It would have to be prospective, wouldn't it?

Hon P.G. PENDAL: It would have to have been. If that occurred, someone at a high level in Government in Western Australia must have condoned it.

Hon J.M. Berinson: There could only be one person at a high level who could have

influenced that, and that would be the Minister for Corrective Services. I told you that your question represented the first time I had heard about it.

Hon P.G. PENDAL: I am happy to accept what the Minister said yesterday. From what I can gather, he said he had no knowledge of the matter and he asked me to place the question on notice. I do not wish to dent the ego of the Minister for Corrective Services; however, other people are at high levels in Government apart from the Minister. I suggest that if it occurred - and my information is that it did - someone at the highest level of Government in Western Australia had to condone that.

Hon J.M. Berinson: How about waiting until the question is answered.

Hon P.G. PENDAL: I am happy to wait for the question to be answered. However, I am not - and neither are other members on this side - prepared to continue to defer matters, as we are often told, while the Government gathers the evidence and gets to the bottom of it. In the past that has often not occurred.

Hon J.M. Berinson: I did not ask the member to do that yesterday. I asked him to place the question on notice.

Hon P.G. PENDAL: I ask as well, if that occurred, for some form of urgent inquiry. We should not have to wait for a Royal Commission or a Select Committee to be appointed, because if preliminary indications are that the information is accurate - and I have reason to believe that it is - that in itself warrants some form of urgent inquiry and scrutiny.

Hon Fred McKenzie: Would the member clarify his reference to a high level in Government? Does he mean a Cabinet Minister?

Hon P.G. PENDAL: No. I am interested to know, if it occurred, who condoned it. Hon Fred McKenzie knows that in the ultimate it is a Minister who must bite the bullet - not that we have seen much of that behaviour by this Government. If that occurred without the knowledge of Hon Joe Berinson - and I accept he does not know about it - it would certainly warrant his resignation because he is responsible for everything that goes on in that department. He knows that.

Hon J.M. Berinson: Perhaps I should resign for the occasional escape from security prisons.

Hon P.G. PENDAL: Even Hon Joe Berinson must agree that there is a world of difference between a prisoner who escapes as a result of his ingenuity and through no fault of prison officers, and someone who has been put out to pasture in a comfortable flat.

Hon J.M. Berinson: Let us answer the question first. The member is very good at allegations on baseless assumptions. Let us wait for the facts; it will not take long.

Hon P.G. PENDAL: I am happy to do so. Half the matters raised in this Parliament might never have been raised had we seen a Government in the last seven years more prepared to be open and accountable - as we were told it would be by the Premier when she took office earlier this year.

I could cover many other matters, but I have stated my case. A Select Committee should be appointed. As for the Government's silly threat that it would not serve on a Select Committee of that kind -

Hon J.M. Berinson: That was not a threat. It was a statement.

Hon P.G. PENDAL: I am not aware of the attitude of my colleagues, but my attitude is that I could not care less. I would not waste one second's sleep over the failure of the Government to support and take part in a Select Committee. It does not make it any less a Select Committee simply because a group of Labor politicians refuse to serve on it. Indeed, that would indicate that they are as - I should be careful here -

Hon J.M. Berinson: The member is coming up with another ingenious assumption. No wonder the member must pause to think.

Hon P.G. PENDAL: I am entitled to make the assumption that the Government is not in as much of a hurry to arrive at the truth as the Premier's announcement yesterday would have the rest of us believe.

A very good case has been made out for the appointment of a Select Committee, because until we know that a Royal Commission of substance will be formed, and until we know the

name of the Royal Commissioner, we have every reason to plough on with matters such as this inquiry and the Pike committee of inquiry and any other form of inquiry until we reach the truth.

I support the motion.

Sitting suspended from 3.45 to 4.00 pm

HON J.M. BERINSON (North Metropolitan - Leader of the House) [4.00 pm]: I have long since stopped being surprised at anything that happens in this House, but I have to admit to being at least a little bemused by the fact that the debate on this motion has gone on for so long. I thought that we would not need more than a few minutes today, especially as the Government's position on this issue was made reasonably clear yesterday. I believe I made it clear then that the Government was not at all concerned with the proposal to establish such a committee. Indeed, so little concerned was it, that it did not propose to participate in it. The Opposition would therefore have a free hand to do as it likes, when it likes, if that is really what the Opposition wants. On the other hand, I made it clear that we oppose the establishment of this committee and that that opposition was based essentially on the timing of it. That opposition and the reason for it remains and nothing that has been said today would appear to overcome the basic weakness of the proposal that a committee of this sort should be established at this time.

I can be brief on the general aspects of the matter in that nothing has changed since yesterday. Yesterday it did not seem to make sense to call for a committee which would intrude into areas currently subject to police investigations and, if necessary, the strength of that argument was increased by the more recent statement by the Commissioner of Police that, in view of additional information which had come to hand, the report which he anticipated could be expected to be delivered earlier than might have been expected. I need hardly remind the House that the Commissioner of Police has put in the strongest terms that the sort of inquiry contemplated by this committee could seriously jeopardise the further work required by the police investigation. I do not believe the commissioner could have been clearer on that point and I cannot, for the life of me, understand why his advice should be disregarded, especially when very little time would appear to be involved in waiting for the completion of his inquiries.

There was the additional factor to which I referred yesterday and which has been acknowledged on the other side today; that is, the Royal Commission announced by the Premier this week. The terms to which the Premier referred in indicating the Government's intention in this respect went to the heart of the problem which was conveniently ignored by Hon Phillip Pandal; that is, this issue is based on allegations of bribery by past or present Liberal members of the Stirling City Council and/or the Parliament.

Hon P.G. Pandal: Do you know who controlled the council in those days, by the way?

Hon J.M. BERINSON: I have no idea.

Hon P.G. Pandal: Well I will tell you - the Labor Party.

Hon J.M. BERINSON: What has that got to do with the proposition that it is alleged that Liberal members of the council received bribes? I have never made any comment going further than that. I do not think it is our role to take it further than that. It is a shame that Hon Phillip Pandal does not feel any similar restraint in making the accusations that he makes under the privilege of this House. I remind the House that the whole basis of this part of the problem which is to be the subject of the Royal Commission starts with allegations of bribery in respect of past or present Liberal members in one place or another. It is inconceivable that an inquiry by the Royal Commission into this matter, no matter how specified in the terms of reference, would not turn to the very question which is outlined in this motion. It would be even more impossible to avoid questions about the surveillance activities at the time in the course of the Royal Commission than it was in the recent trial where these matters were first publicly referred to. There is, therefore, no question but that both the police inquiry now under way and the Royal Commission -

Hon P.G. Pandal: "Now" under way.

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

Hon P.G. Pandal: I am emphasising your point.

Hon J.M. BERINSON: Certainly now under way and intensified - I have forgotten where I was.

Hon Peter Foss: And the Royal Commission.

Hon J.M. BERINSON: I appreciate Mr Foss' assistance, but I might choose my own words. It is inconceivable that either the police investigation or the Royal Commission about to be established would not deal with every aspect of the matter which Mr Foss would like the Select Committee to deal with. In that sense it is not just a case where the setting up of a committee at this point does not make sense; the position is much worse than that because, as the Commissioner of Police has made clear, the operations of such a committee at this time - I stress again at this time - could well have serious potential for harm. It could seriously jeopardise the proper investigations that are required. That was acknowledged yesterday by the Opposition at least twice, perhaps more often, with the extraordinary suggestion that we should proceed to set up this committee even if it did not sit. It was suggested by some speakers that there was indeed a real problem involved in the advice offered by the Commissioner of Police but that that should not stop the committee from being established, all it should stop, at most, is the committee actually meeting and doing something.

Hon Derrick Tomlinson: You can be assured that the committee will sit.

Hon Peter Foss: Do not worry about that.

Hon J.M. BERINSON: It depends on how responsible the Opposition wants to be. It depends on the extent to which it is prepared to risk the potential of jeopardising a proper inquiry and having this matter brought to a proper conclusion. That is a judgment the committee will make and I pause only to emphasise that it is a judgment a committee of three Liberal members of this House, unimpeded by any other contribution by either the National Party or the Government ranks, will be able to make. If they want to behave in that way, the responsibility is theirs. I suggest that the comment made yesterday was not made lightly and, in fact, it represents what is probably the practical situation, since I do not accuse a committee likely to be chaired by Hon Peter Foss of deliberately setting out to foul the proper investigation of complaints that have been made.

If this committee proposal is finalised today, I think the committee will be established and will refrain from public activities at least, but I suspect from any activities at all, until the report by the Commissioner of Police is available. If that is the prospect, it makes even less sense than otherwise to insist on pushing through the establishment of the committee today. Again I will foreshadow, as I did yesterday, that I may ask one of my colleagues to move the adjournment of this debate so as to test the feeling of the House on it. There is nothing to be lost by waiting on the further developments which we are now told can be expected earlier than was suggested.

The terms of the motion passed yesterday not only provide that this debate should be brought on first in our business today, but also that it should be brought on first every day until the issue is finally determined. That creates a situation in which the Opposition on any particular day it comes to the conclusion that it cannot contain itself and cannot wait for the police report or alternatively, having received the police report, believes that the committee should then proceed, can take that action on the same day that the decision is made. Therefore, there is nothing to be lost in terms of responsible behaviour by leaving it on the Notice Paper and leaving the final decision on the establishment of this committee until a real indication is given from some perceived inadequacy in the final result of the police investigation that it is thought the committee could help to address.

I add to that only some brief references to Hon Phillip Pandal's comments. He did not deign to go into basic questions about the desirability of this committee, and he is perfectly entitled to leave that to others. But, it was rather a shame that in lieu of that he favoured a presentation which simply sprayed allegations, all of which were based on assumptions which suited his own purpose. He made certain assumptions about the nature of a tape, the background to it and the use of it which I suggest neither he nor I are in a position to talk about with any knowledge. Nonetheless, he assumed the worst and went on to give us a learned dissertation about the tape necessarily involving a breach of the Listening Devices Act. It is very interesting that he should come to that conclusion because at least two bodies, which I would have thought were rather better equipped than Hon Phillip Pandal to make

such judgments, have reached contrary conclusions. I refer to both the Federal Police and the State Police.

Not enough attention has been paid to the fact that the first seizure and the first study of the material to which Hon Phillip Pendal referred was made by the Federal Police in the course of their pursuing the tapping allegations. If I understand the position correctly, it was on the further work by the Federal Police that the recent prosecutions took place. It is interesting to note that in an answer to a question in the Senate on 14 November 1990 Senator Ray indicated that he was advised that there was no evidence at all implicating Mr Brian Burke in the AFP investigation and the Commonwealth offences which led to the prosecution and conviction of Robert Smith. I am sorry to have to quote that because I do not think any basis has been provided for allegations which require any defence of Mr Brian Burke.

Hon P.G. Pendal: We did not talk about him today. Perhaps it is a guilty conscience on your part.

Hon J.M. BERINSON: Of course, I know that the Opposition talked about Mr Terry Burke. Is Hon Phillip Pendal suggesting that the Federal Police, put in a position where they could make a judgment as to the commission of some offence by one person, simply reported that no offence had been indicated as having been perpetrated by another person? Is it seriously suggested that the Federal Police, with all the material to which Hon Phillip Pendal has referred, would give a partial report of that nature? Is it further suggested that that material, having been made available to and considered by our own Police Force, and a conclusion having been reached that no offence was demonstrated, was not subjected to a proper review of all the potential offences which needed consideration?

Hon Phillip Pendal is putting himself in a position of quoting an Act, referring to facts about which he has incomplete knowledge, putting the two together, and arriving at a conclusion which is exactly contrary to the conclusion reached by the Federal and State Police, who were in a position to consider the actual material and its legal implications.

Hon P.G. Pendal: Are you saying that the allegations of bribery contained in those tapes have no foundation?

Hon J.M. BERINSON: I am making no judgment at all.

Hon P.G. Pendal: We are very pleased about that.

Hon J.M. BERINSON: How can I make a judgment on material about which I know nothing more than on the basis of media reports, which were necessarily incomplete and all coloured one way or another by the people who were talking about them? I repeat that I have never referred to these matters in any terms other than as publicly aired allegations. I cannot understand why members opposite are not prepared to share the view that the proper way to investigate these matters, at least in the first place, is by investigating authorities. A Select Committee is not an investigating authority, although it can pursue matters quite far.

No-one will doubt, however, that the professional expertise of the Police Force and its knowledge of all the surrounding events is really what has to be brought to bear. If at the end of the day members opposite are dissatisfied with the report, by all means go on. That is the sort of indication that will be given to the Royal Commission. If members opposite want to compete with the Royal Commission, as they apparently now want to compete with the Commissioner of Police, they should go ahead and have their competition. I only hope that will not result in the sidetracking of the issues or the realisation of the potential for jeopardy to prosecutions of which we have been warned.

I am not sure of the relevance of one parting shot which Hon Phillip Pendal directed towards me in relation to yesterday's question about how Mr Robert Smith was or was not imprisoned in Greenough Regional Prison. The utter lack of concern which I have in respect of any suggestion of impropriety at Government level or anywhere else will perhaps be indicated by the fact that my having had that question foreshadowed yesterday, I simply left it to the ordinary processes of questions on notice, without taking the trouble, as one does normally when issues are disturbing, to give it some expedited consideration. On the basis of Hon Phillip Pendal's comments, I have now contacted the department to see whether it can provide an answer rather more quickly than would otherwise be the case. I mention this purely to indicate that that reference yesterday was really of as little concern on its merits as was its relevance to anything else that I could understand in relation to the debate today.

The position today is the same as yesterday. The view of the Government is that a Select Committee should not be established at this point. It should be established, if at all, at a time when the need for that committee has been demonstrated by a report which is believed, for any reason, to be inadequate. We are assured that we will not have to wait long for that report, and we would be better served were we to wait for it before proceeding.

I conclude with a comment I have made already. The decision which we made yesterday on this motion is that it can be called on again without any notice at all on any day of the Opposition's choosing, and can be brought to conclusion so that a committee can be created forthwith. I urge the House to accept that this is not the time and that the proper course of action today, as it would have been yesterday, is to defer further consideration of this matter.

Adjournment of Debate

HON FRED MCKENZIE (East Metropolitan) [4.26 pm]: I move -

That the debate be adjourned.

Question put and a division taken with the following result -

Ayes (13)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Tom Stephens
Hon J.M. Brown	Hon Tom Helm	Hon Bob Thomas
Hon T.G. Butler	Hon Garry Kelly	Hon Fred McKenzie
Hon Cheryl Davenport	Hon Mark Nevill	(Teller)
Hon John Halden	Hon Sam Piantadosi	

Noes (14)

Hon J.N. Caldwell	Hon P.H. Lockyer	Hon W.N. Stretch
Hon George Cash	Hon Murray Montgomery	Hon Derrick Tomlinson
Hon Reg Davies	Hon N.F. Moore	Hon D.J. Wordsworth
Hon Max Evans	Hon P.G. Pandal	Hon Margaret McAleer
Hon Peter Foss	Hon R.G. Pike	(Teller)

Pairs

Hon Graham Edwards	Hon Muriel Patterson
Hon Doug Wenn	Hon Barry House
Hon B.L. Jones	Hon E.J. Charlton

Question thus negatived.

Debate Resumed

HON PETER FOSS (East Metropolitan) [4.30 pm]: It is correct that the Commissioner of Police has said that the establishment of this Select Committee would jeopardise his investigations, but it is also correct that the commissioner said that about the Ombudsman's investigation. However, the Ombudsman's investigation had a most salutary effect in that the Police Force appeared for the first time in two years to have actually carried out some investigation into the information provided by the Federal Police. More importantly, it indicates that the commissioner has little appreciation of the terms of reference of this committee, as have all the speakers on the Government side, because there is no intention in this motion that this committee should investigate the same matters as the police. In fact, a term of reference in this motion specifically avoids that problem. Paragraph B of the motion states -

It is not the purpose of the Committee to make any finding as to any matter which may be the finding upon a prosecution.

That term of reference was inserted to avoid that very problem and it will not be left up to the committee to find out whether there was bribery. The questions we are concerned with are why nothing was done and were any members of the Government or their staff aware of the existence of the tape prior to public disclosure.

People should realise that this is not an investigation into the City of Stirling; it is an

investigation into the Government. If some people foolishly think that this committee will conduct an investigation into the content of the allegations in the tape they are mistaken. Certainly, we want to make sure that those allegations are investigated promptly by the police, but we have no intention of taking over their job.

If the commissioner's belief in the fact that this committee will investigate is based on persons in the Government it is understandable that he formed the false impression that this committee would in some way prejudice his investigations. It is clear that the committee will not do that. However, more importantly, one should understand that most of this motion is directed not towards that tape but to the blue file, the diary of Robert Smith and the question of whether Government surveillance was carried out on Opposition members. That is why the committee is to be named the Select Committee into Government Surveillance. That needs to be appreciated by people who are considering this motion rather than listening to what the Government has been saying on this matter and ending up with a totally false impression of what the committee hopes to achieve.

I also wish to mention a small point made by the Leader of the House about the Listening Devices Act. Hon Phillip Pandal pointed out that it is not an offence to record a conversation if one person who is a party to that conversation tapes the conversation. However, Hon Phillip Pandal also carefully read out to the House that it is an offence, even for a person who was a party to a conversation, to then communicate the information from that tape to any other person.

How did this all start? It started with an article in the *Sunday Times* giving details of a conversation. It is clear that the details of the conversation were communicated to a third party. In fact, some of it was communicated to a large number of third parties through the medium of the *Sunday Times*. It is clear that one of the parties, or some of the people who had access to that tape, communicated details about it. If that is not so the whole thing has been made up. We need to know if it has all been made up because substantial allegations have been made about people.

Today the Leader of the House said that Liberal members of the City of Stirling had been involved. I cannot remember any newspaper stating that. The newspapers may have mentioned a former Liberal member who was supposedly involved in giving a bribe and that members of the City of Stirling were on the receiving end; however, there are Liberal members of the City of Stirling, Labor members of the City of Stirling, and, I presume, independent members of the City of Stirling. I do not know from where the Leader of the House received his information. I do not know whether he has some information or access to the details of the tape in excess of the common details that the members of the public have. He seems to be confident that the tape refers to Liberal members. I do not know from where he gets his confidence, unless he has greater knowledge than the general public.

Hon N.F. Moore: He claims not to have that knowledge.

Hon PETER FOSS: I do not know from where he would have received that information.

Hon Tom Stephens: They say.

Hon PETER FOSS: It is the Liberal Party's view that if these allegations were made they should have been investigated some time ago. That is the point we are making. The Liberal Party is not going to investigate the allegations; it is going to find out why nothing was done about the allegations some time ago. That is a responsible attitude on our part and it is the attitude Government members should take when they hear allegations made about people; they should get on with the job and investigate the allegations.

The Leader of the House suggested that this committee should not be set up because investigations are still proceeding and a Royal Commission is to be set up. As soon as a Royal Commission is announced by the Premier it is assumed by some that there is a Royal Commission. However, there is no Royal Commission, and there may not be one for some time. Firstly, legislation to establish a Royal Commission has to be introduced into this Parliament. Little time exists for that legislation to be drafted, to come before this Parliament and to clear all stages of the debate. Secondly, satisfactory terms of reference have yet to be announced. Thirdly, a Royal Commissioner must be appointed, and I assume that will take some time. Fourthly, that Royal Commissioner must have staff and an establishment in order to get on with the job. There may very well be some period of time

before this Royal Commission actually gets under way. In fact, given this Government's record, I believe that unless the incentive is there - unless the people of Western Australia persist in asking for this Royal Commission to be brought forward urgently - this Government will do what it has done over every other single thing that it has been forced into doing which it has not wanted to do; that is, sit on it for the longest possible time.

If members need any greater evidence of that, I point to the fact that from the Premier we have a bare statement that there will be a Royal Commission in the future; yet we have a written undertaking from the Deputy Premier and the Attorney General - the Leader of this House - that they will make some changes to the State Government Insurance Commission Act. If members wish to have the slightest comprehension as to how believable the undertakings of this Government are, and how quickly it moves to carry out those undertakings, they need look no further than that. We believe these allegations are serious, both the first one, relating to Government surveillance, and the second one, relating to the tape, which has not been acted upon. We believe these matters require immediate action. That is our first reason for saying this Select Committee must be set up and commenced now.

Our second reason is this: It appears from the Premier's speech in another place that one of her concerns which motivated her to move for this Royal Commission was the establishment of this Select Committee. It is quite clear that, at a time when one would expect the Premier to be saying positive and statesmanlike things about the future, her obsession seems to have been with the setting up of this Select Committee. I firmly believe that unless we, in the name of the people of Western Australia, maintain pressure on this Government, the Royal Commission will be as slow to occur and will hit as many hard lumps and obstructions as has the legislation to amend the State Government Insurance Commission Act, which we are still to receive in this House, and for which we are still to find this Government showing any form of excitement or any incentive to carry out.

Hon Derrick Tomlinson: Even though it agreed to do so.

Hon PETER FOSS: That is correct. It reminds me very much of the situation in *The Mikado*, with the Leader of the House cast in the role of Ko-ko. Those members who follow Gilbert and Sullivan will recall that Ko-ko, the Lord High Executioner, went into enormous detail telling the Mikado how he had cut off Nanki-Poo's head. Ko-ko satisfied the Mikado he had carried out his orders, but it subsequently transpired that he had not cut off the head of Nanki-Poo, and when the Mikado called on him to explain why he had told this pack of lies, Ko-ko said, "Well, your Majesty, when you order something to be done it is as good as done, is it not?" The Mikado said, "Yes, that is true." Ko-ko said, "If it is as good as done, we might as well say so." That is exactly what this Government is doing. It is saying, "When we say something is to be done, it is as good as done, so we will treat it as being done." Our experience on this side of the House is that when the Government says it is going to do something it may never happen at all, or if it does happen it happens exceedingly slowly and only when the pressure is kept on the Government and it is forced into doing it. I am still waiting for some slight sign from the Government that it will do the right thing by its undertaking given in May, and I must say that I do not have a great deal of confidence that the Government will be moving on this Royal Commission, because I do not feel the Government will say it has a high priority. I hope it does. I would like nothing better, and I am sure the people of Western Australia would like nothing better, than for my words in that respect to be proved wrong. If the Government does it only to prove me wrong it would be an achievement of some sort.

Hon J.M. Berinson: If we had to do things every time Hon Peter Foss needed to be proved wrong, we would be doing little else.

Hon PETER FOSS: It would be a refreshing change if the Leader of the House could prove me wrong for the first time.

I believe this Select Committee should sit. It is a matter of regret that the Government has indicated it does not intend to appoint any member to the Select Committee. That is an irresponsible attitude. The excuse the Government gives, that this Select Committee will seek to interfere with the tape recording allegations, cannot stand up. Members will see that this Select Committee is an investigation into the Government. The fact that the Government does not wish to participate is purely a political ploy and I am disappointed that the Government continues to resort to political ploys and not get on with the serious business of

finding out what has gone wrong in this State. Had the Government adopted a statesmanlike attitude to this whole Royal Commission, had it come out and said, "This is an opportunity for us to get this monkey off our backs, so that we can at last bare our souls and show people the truth about all these transactions and perhaps make some genuine attempt to reveal the facts", it might have been able to get on with the things that need to be done. Many extremely serious things need to be done, due to the serious financial position the State is in.

I would have hoped that, in that context, the Government would have wished to participate in this Select Committee because it, too, wished to bring these matters out; because unless the Government is prepared to bare its soul and bring these matters out into the open the advantage it could gain for the State of Western Australia by calling a Royal Commission at long last will be lost. I was very cheered when the Premier announced the Royal Commission. I hoped that, at long last, the Government would get the monkey off its back and take a forthright attitude to bringing out the facts and then get on with governing the State, without having the problem of these nasty files which sat on its desk which it did not even like to acknowledge existed. The Government had that opportunity and I hoped the Premier would come into the Parliament and take that attitude, but unfortunately she took the opportunity instead to attack another Select Committee on which I am presently serving, and this proposed Select Committee. It indicates the unfortunate attitude of this Government, that it does not see the Royal Commission as being a positive step but rather as a step reluctantly forced on it. If it is the case that the Royal Commission has been reluctantly forced on the Government, I believe the second reason for the necessity of this Select Committee is more than amply proved.

Hon J.M. Brown: What if it is not the case?

Hon PETER FOSS: I still believe there is an urgent necessity to do it; but I do believe it has been reluctantly forced on the Government, because of the very regrettable attitude expressed by the Premier in another place when she explained to that House all about her decision.

Those are the two reasons for the urgent need for this to be dealt with immediately. I do not believe the Royal Commission will be functioning soon enough to deal with these things in an appropriate time frame, and I believe it will be necessary for the Government to be kept under pressure if it is to deal with it. The Government is like a bad debtor who, if one puts pressure on him, will come and talk about paying the debt; but as soon as one takes the pressure off he considers it is done and he does not need to think about it any more.

Hon E.J. Charlton: "The cheque's in the mail."

Hon PETER FOSS: That is an excellent analogy by Hon Eric Charlton.

Hon J.M. Brown: Another one is, "I will love you tomorrow."

Hon PETER FOSS: Hon Barry House has drawn attention to an article in the *Bunbury Mail* of 17 November, which contains an interview with the Minister for Community Services, Justice, and South-West relating to matters such as this. He is speaking about Premiers Burke and Dowding, and he says -

Mr Smith was reluctant to discuss allegations of improper and illegal dealings by the Burke and Dowding governments but admitted he knew of such acts.

"One listens to or picks up gossip and knows hard facts in some cases. But I don't want to go into that any further."

Hon P.G. Pandal: And he is the Minister for Justice, for heaven's sake!

Hon PETER FOSS: Yes, he is the Minister for Justice. I have said all along that this is the sort of thing that obviously must have been the case with this Government, and here is the Minister for Justice actually admitting that that was the case! This very point is covered by one of the terms of reference for this proposed Select Committee -

Which present or past members of the Government or their staff were aware of the nature of the work which was done or the contents or existence of the tape prior to or in excess of public disclosure;

Mr Smith is clear when he says, "One listens to or picks up gossip and knows hard facts in some cases." I would like to know whether one of the "hard facts" is this particular one. That is why it is so important that the message contained in the terms of reference is that the

Legislative Assembly should allow this committee to speak to its members, because if members have any concerns about that part, they must be laid to rest by the statement by Mr D.L. Smith in the *Bunbury Mail* article. Accordingly, I commend this motion to the House and hope that both Government and Opposition members support it.

Question put and passed.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Assembly's Message

Message from the Assembly notifying that it had agreed to amendment No 1 made by the Council, and had disagreed to amendments Nos 2 and 3, now considered.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon John Halden (Parliamentary Secretary) in charge of the Bill.

Amendments Nos 2 and 3 made by the Council, to which the Assembly had disagreed, were as follows -

No 2.

Page 5, after line 8 - To insert after subclause (c) the following -

(d) any sum that the tenant has agreed to pay to the landlord in respect of the transfer from the landlord to the tenant of a licence issued under the Liquor Licensing Act 1988.

No 3.

Page 15, after line 29 - To insert after paragraph (f) the following -

(g) a party to proceedings before the Registrar who is dissatisfied with the decision or order of the Registrar may appeal to the Tribunal against the decision or order.

The Assembly's reasons for disagreeing to the Council's amendments Nos 2 and 3 were as follows -

No 2.

The amendment would have the effect of treating licensed premises differently to any other retail shop covered by the Commercial Tenancy (Retail Shops) Agreements Act 1985.

No 3.

There is a high incidence of Section 13(7) applications to the Registrar (795 during the last 12 months). A right of appeal against the Registrar's determinations has the potential to completely frustrate the process of all matters dealt with by the Registrar including mediations because of the additional time that will be spent in dealing with Section 13(7) application.

Hon JOHN HALDEN: I move -

That the Council do not insist on its amendments.

Hon GEORGE CASH: I make it clear to the House that the Opposition will insist on the amendments that it made in this Chamber some time ago and had transmitted to the Legislative Assembly. We do not agree with the arguments advanced by the Minister responsible for this legislation and believe that the arguments we put forward some weeks ago should stand and be carried by the majority in this Chamber. Without wishing to digress from the two amendments under consideration at the moment, it is important that I say that many members of Parliament have expressed great concern at the length of time it has taken the Government to deal with this Bill. It is fair to say that that concern has been expressed not only by members of Parliament but also by members of the Building Owners and Managers Association and representatives of the Australian Small Business Association and various other business organisations throughout Western Australia.

One of the factors that has complicated the carriage of this Bill is that while it has been held up either in the Legislative Assembly or the Legislative Council for some considerable time, several things have occurred. One of them is that the five year review, which was a provision of the original Act which passed through Parliament in 1985, has already commenced. Members are probably aware that more than 60 submissions are before the review committee for consideration. There are those in the community who now express the view that because of the effluxion of time and the fact that that review committee has now commenced its consideration of the effect and the impact of the original Act, the amendments that are contained in this Bill should not be proceeded but should be subject to the review committee's consideration. Little will be served in my going on and on about the displeasure that that brings to many members of Parliament and business organisations. The Opposition has made the point that it will insist on the amendments that were transmitted to the Legislative Assembly. We do not accept the argument set out by the Minister, and we invite all members in this Chamber to join us in insisting on the amendments as earlier passed.

Hon E.J. CHARLTON: Hon George Cash has outlined the situation of the legislation that is before the Chamber. We recognise that the various groups in our community directly affected by this legislation have varying views on what decision is acceptable. It is a fact that in another place both the Liberal and National Parties have been at one in the decision which they thought was in the best interests of all concerned, but as has been outlined by Hon George Cash, some members in this place now consider that, because of the review under way, it is important that these amendments should stand. The National Party is aware that a review is in place, but it proposes to allow this legislation to proceed and not to force the amendments. As a consequence of that we want to see the changes that the legislation will effect on both owners of buildings and tenants.

[Questions without notice taken.]

Hon E.J. CHARLTON: In the interests of those people who have declared their strong desire for this legislation because they believe it will benefit the majority of people concerned, the National Party will not insist on the amendments. The National Party looks forward with interest to the results of the review.

This legislation is going through a period of change and as a consequence we will look forward with interest to see what are the ramifications of this legislation not only on the property owners, but also on the tenants.

Obviously tenants are suffering greatly at the moment as a consequence of the downturn in the economy and because of the overheads for which they are liable. It is obvious to all that small businesses in particular, most of which operate from leased premises in large shopping centres, are suffering greatly as a consequence of the economic downturn. The National Party will not be insisting on the amendments.

Hon JOHN HALDEN: Hon George Cash was correct when he said that this Bill has been before this place for some time. I cannot accept that that is totally the responsibility of the Government. Some misconceptions have existed about the legislation, which one sees from reading the debate which took place in the other place. A number of misconceptions had to be clarified in the minds of members before a debate about pertinent issues related to the content of the Bill took place. I appreciate the support given by the leader of the National Party to our stance.

Hon D.J. Wordsworth: We have not been told what the misconceptions were.

Hon JOHN HALDEN: Those misconceptions related specifically to retrospectivity. For a long period some people thought certain provisions in the Bill were retrospective. A number of opinions had to be tabled in the other place to show members that that was not the case. After reading the *Hansard* record and having discussions with certain people my understanding is that it is now accepted by Liberal Party members in the other place that such retrospective provisions do not exist. However, that took a considerable time.

I am pleased by the statement made by the leader of the National Party that he, like the Government, will not be insisting on these amendments. The proposed amendments supported by the Liberal Party in the other place would cause considerable problems. The first amendment relates to the work of the registrar and would cause an enormous increase in

the workload of that person and his or her role to be changed dramatically if implemented. It would cause cost factors and time delays in that office to increase out of all proportion. It has been suggested to me that both the cost factors and time delays would have blown out exponentially if these amendments were implemented. I do not think that is what the Liberal Party had in mind. If the matter were explained to Opposition members in the way it was explained to me I believe they would not insist on these amendments.

It is strange with regard to premiums for licensed outlets that those who purport to represent the business sector want to discriminate against a small retail sector in the business community. In effect, a person who has a retail licence could well be discriminated against, having made an enormous commitment to a business only to find himself or herself unable to sell the goodwill of that business. The premium may be paid to the landlord and not to the person who runs the business. The Government could not accept that principle. That is one of the reasons why it will insist upon my motion. It is not fair that people should be discriminated against in such a way.

It is also clear that people in country areas who own hotels under 1 000 square feet in size would be discriminated against. They could be charged premiums and would not have the protection of legislation. That is not a situation the Government wants to, or should, tolerate. Some people have suggested that this provision may apply to large hotels, but that is not so as the Bill does not encompass hotel premises over 1 000 square feet in size. I thank the Leader of the National Party for his support and hope that the Opposition, with the passing of this legislation, will support it in time to come.

Hon D.J. WORDSWORTH: I am disappointed at the outcome of these Committee proceedings. Members in this and the other place have made a mess of this commercial tenancy legislation and have not been fully aware of the effect of some of the amendments. It was not until the industry pointed out those effects that we realised that it is difficult for Parliament to step into the commercial scene and endeavour to stand between tenant and landlord to arbitrate in this field. Traditionally that has been covered by the terms of an agreement and no-one has been forced to make an agreement with a landlord. There are choices of sites and no-one has been forced into a particular site. It is quite stupid for us to start writing laws to stop people from making an agreement in certain terms, because if they wish to reach agreement on terms they should be allowed to do so.

Negotiations should be able to take place between the people involved, in this case landlord and tenant. We have got ourselves into grave difficulties in the transferring of leases by tenants. A landlord must have the ability to put together a mix of outlets in a shopping centre. It can cause difficulties if a tenant is allowed to transfer a lease to someone of a different occupation or with a different object in mind for the use of a leased premises. Those who read the property section of *The Weekend Australian* two weeks ago would have seen an article by the leading real estate firm in Australia explaining the difficulty that shopping centres get into if their mix of shops is not well balanced. The only way that situation can be corrected if it arises is to set up the shopping centre anew.

I pointed out when speaking to the Bill previously that it is quite an art to mix a supermarket with a bank, greengrocer, newsagent and so on as there must be a balance of businesses in a centre. If that business mix is out of balance that acts to the detriment of every business in the centre. Those who take out a lease want to know that there will be a good mix and if there is not they realise that the shopping centre will not be the success it should be. I am the first to admit that many tenants get into trouble today because of the downturn in the economy. No landlord wants to see his tenants in trouble.

After all, his future is in the hands of his tenants. As soon as his tenants get into trouble, the whole centre, including his investment in the real estate, will be in trouble. While one is inclined to picture a modern shopping centre in a suburban area as a scene for examples, I remind the Chamber that examples include many other shop owners and lessees such as those in Wellington Street or in a suburban area; they are not necessarily only in large shopping centres but may consist of individual shops each owned by a single person or a corporation. A shop is an investment which many people have as their only investment, and in some cases it is not a very large investment. For instances, \$100 000 will buy a single or double commercial tenancy site in Stirling Highway or in some other area. I do not believe we should be aiming at the big business man as hitting the tenant over the head. It is often a

little old lady whose only investment is a commercial site. We will make it very difficult for that person if some of the provisions in this Bill go through, particularly those relating to the transfer of leases.

The matter of the hotel was raised by the Minister. That illustrates the fact that some commercial sites are developed for specific clients. Consider a liquor licence. The person concerned must spend a considerable amount to obtain such a licence. As members will realise, the Government and the Liquor Licensing Court do not want extra liquor licences issued. If a person wants a licence for a site, one must purchase it. We have heard about a person at Lake King who had to find a licence, and the Government charged something ridiculous like \$250 000 for that licence.

Hon John Halden: The cost of securing the licence is recoverable.

Hon D.J. WORDSWORTH: From whom? From the tenant? It depends on whether that is in the agreement.

Hon John Halden: One would presume it would be.

Hon D.J. WORDSWORTH: One would look a little foolish if one recovered the money, but still had an hotel without a licence.

Hon John Halden: I don't know business people who do those sorts of things, but you might.

Hon D.J. WORDSWORTH: It is interesting that the main people to ask for these changes happen to be the licensed retail store owners, and that is exactly what they have been doing. That is why they are so happy with the Government's proposed amendments; they see them as a way in which they can transfer licences.

Hon John Halden: Fairness normally makes people happy.

Hon D.J. WORDSWORTH: My other concern is that the whole subject is under review, and it is stupid for us in the Parliament to be interfering and making little changes, and in some cases major changes, to the legislation. We should have waited for that review. Those carrying out that review will want to know whether to review the situation with these amendments included because the Parliament has said they are necessary.

Question put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I give my vote with the Ayes.

Division resulted as follows -

Ayes (15)		
Hon J.M. Berinson	Hon John Halden	Hon Tom Stephens
Hon J.M. Brown	Hon Kay Hallahan	Hon Bob Thomas
Hon T.G. Butler	Hon Tom Helm	Hon Fred McKenzie
Hon J.N. Caldwell	Hon Garry Kelly	(Teller)
Hon E.J. Charlton	Hon Mark Nevill	
Hon Cheryl Davenport	Hon Sam Piantadosi	
Noes (12)		
Hon George Cash	Hon N.F. Moore	Hon D.J. Wordsworth
Hon Reg Davies	Hon P.G. Penda	Hon Margaret McAleer
Hon Max Evans	Hon R.G. Pike	(Teller)
Hon Peter Foss	Hon W.N. Stretch	
Hon P.H. Lockyer	Hon Derrick Tomlinson	
Pairs		
Hon Graham Edwards		Hon Muriel Patterson
Hon Doug Wenn		Hon Barry House
Hon B.L. Jones		Hon Murray Montgomery

Question thus passed; the Council's amendments not insisted on.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

BUILDERS' REGISTRATION AMENDMENT BILL

Assembly's Message

Message from the Assembly notifying that it had disagreed to the amendment made by the Council now considered.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair, Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

The amendment, to which the Assembly had disagreed, was as follows -

Clause 16, page 6, line 5 - To delete the word "Irwin".

The Assembly's reason for disagreeing to the Council's amendment was as follows -

This amendment if supported would disadvantage consumers in the Shire of Irwin by not providing them with the protection provided by extending the Builders' Registration Board's jurisdiction to cover this area.

Hon KAY HALLAHAN: I move -

That the amendment made by the Council be not insisted on.

Hon MARGARET McALEER: I oppose the motion. I urge the Committee to insist upon the amendment which excludes the Shire of Irwin from the area proposed for the extension of the Builders' Registration Act on the grounds that the Shire of Irwin has opposed its inclusion since it was first mooted in 1987; that weight should be given to the shire's judgment in this matter because it seems to me that the Legislative Assembly has misunderstood the building situation and the situation of consumers in the Shire of Irwin.

The shire council reaffirmed its position most recently by resolution on 18 October when it was moved "That the council advise the Geraldton North Western Board of the Master Builders Association of Western Australia that council will not change its policy in regard to the exclusion of the Irwin shire for the implementation of the Builders' Registration Act as council can see no benefits that can be gained by the inclusion of the council within the Act."

The Irwin Shire Council believes that the pattern of building within the shire is such that it would not facilitate the provision of housing and other construction if it were to come within the Act. To illustrate this, in 1988-89 the shire issued a total of 179 building permits; 52 per cent of the permits were issued to owner-builders; 48 per cent of the permits were issued to builders. In respect of new dwellings, 61 permits were issued, 36 per cent of which were issued to owner-builders and 64 per cent to builders. In 1989-90 the shire issued a total of 171 building permits, 62 per cent of all permits were issued to owner-builders, while 38 per cent of all permits were issued to builders. In respect of new dwellings, 46 permits were issued for the year, 44 per cent of which were issued to owner-builders and 56 per cent to builders.

Therefore, in those two years more permits were sought and granted to owner-builders than to builders, and the permits increased by 10 per cent. The percentage of new dwellings built by owner-builders increased last year also. The owner-building system is evidently a favoured way of building in Dongara, Denison and the whole Irwin district. Members will also note that less than one-third of the building permits relates to new dwellings. Apart from dwelling houses the type of buildings encompassed in the building permits are of all shapes and sizes, from sheds, to various extensions. Clearly, the shire is satisfied that the standard of building is acceptable and that it is able to administer the uniform building by-laws successfully. It considers that it would not be of great benefit to alter the status quo.

It seems fairly obvious to me from the figures - and I know it is the shire's opinion - that a great deal of local employment is obtained in the present situation, and that also presents a good case for retaining the status quo.

If in the future it becomes apparent to the shire council that its residents are being

disadvantaged, surely the situation can be easily altered by a one line amendment to the Act. It is important to remember that the Bill before the Chamber has as its principal object the strengthening of the Builders' Registration Act wherever it applies.

The provision of steep increases in penalties have been sought by the Builders' Registration Board to try to make the Act work more satisfactorily, and it is hoped that it will.

It seems a little silly of the Minister that on 1 November she uttered threats about not proceeding to extend the Act to the welcoming municipalities if the Shire of Irwin is not included. That seems to strike at the heart of the Bill. It is also an act of foolishness and is counterproductive. When the Builders' Registration Act was extended to the south west, the Shire of Capel wished to be excluded, and was, without any particular fuss. It continues to be satisfied with that exclusion. The Minister is not holding up the Shire of Capel as a horrible example of what happens when a shire is not included in the general extension of an Act.

The same tolerance should be extended to the Shire of Irwin and the Government should substantiate its much publicised faith in local government's ability to make local decisions by upholding the amendment.

Hon E.J. CHARLTON: The National Party supports the comments made by Hon Margaret McAleer. It is not often that members have the opportunity to represent constituents from other districts without a detrimental effect on their own areas. This is an occasion where members can support another district. As Hon Margaret McAleer stated, at any time in future - whether short term or long term - if the Shire of Irwin decides it wishes to be placed under the umbrella of the Builders' Registration Act, speedy steps can be taken to rectify the situation. This is an instance where such a body can decide whether to be excluded from such an extension of legislation.

I understand the Government's desire not to have a mishmash of districts which include some areas covered by registration and others that are not. However, coastal areas particularly wish to retain some flexibility with various operations. On that basis, and on the basis of the research conducted by the shire referred to by Hon Margaret McAleer, it is not just a shire decision. The shire went to the trouble of reflecting the desires of the local people. The local authority and members of Parliament should reflect that desire by simply insisting on an amendment to the legislation, and by rejecting the Minister's motion; that is what we are doing. As said by Hon Margaret McAleer, if the occasion arises and this legislation needs to be changed, we will be the first to support it.

Hon GEORGE CASH: I support Hon Margaret McAleer and Hon Eric Charlton, who are both local members representing the Shire of Irwin. The important point is that the Minister is insisting that members not adopt the Opposition's amendment because she considers that if it were adopted it would disadvantage the consumers in the Shire of Irwin by not providing them with the protection of having the Builders Registration Board's jurisdiction extended to that area.

One of the most telling points in Hon Margaret McAleer's speech imploring members not to support the Minister's motion was her reference to debate in the Legislative Assembly on Tuesday, 1 July 1986. At that time a similar Bill was before that House which amended the jurisdiction of the Builders Registration Board to cover a number of south west shires. However, three shires were not included in the relevant group of shires which the Government wanted covered at that time; these were the Shires of Capel, Waroona and Boddington. The then Minister for Consumer Affairs, Mr Keith Wilson, replied to the Opposition queries about why those shires were excluded, and his answer is on page 1145 of that year's *Hansard*. Mr Wilson's reply was very concise; he said that the Shires of Capel, Waroona and Boddington declined to participate. That was the Minister's justification and it seems that the arguments proposed by the Shire of Irwin, Hon Margaret McAleer and Hon Eric Charlton clearly indicate that the Shire of Irwin does not wish to participate in having the jurisdiction of the Builders Registration Board extended to that area. As the Government a few years ago was prepared to use the argument that because certain shires declined to participate in the change the Government was prepared to maintain that situation, it seems reasonable today that the Shire of Irwin should not be included in the legislation for that very reason.

Hon KAY HALLAHAN: I believe an error is being made in that a protection would be afforded to the Shire of Irwin and surrounding areas by the extension of the jurisdiction of the Builders Registration Board. This protection does not exist at the moment. Members opposite seem to be very comfortable expressing the view that the protection should not be provided. I cannot understand the reason for this unless the Opposition believes that the shire has accurately read the situation.

When this matter was previously debated, reference was made to the varied circumstances and economic needs of crayfishermen. Crayfishermen fish during the crayfishing season and they build houses for the rest of the year. While they might be regarded as owner-builders, some of these people could move on and their homes would be sold to people moving into the Shire of Irwin. These buyers would not be afforded the protection contained in the Bill as presented by the Government. It may be that the crayfishermen in question are very capable builders, but it is very clear that we are not currently providing a protection which should reasonably be provided.

Amendments to Statutes take a long time and it could be a minimum of two years and possibly five years before this protection could be extended to the Shire of Irwin. Therefore, members of the Opposition are embarking on a proposal which has a certain amount of risk associated with it.

Hon George Cash: How does the Minister justify the Government's stand in not forcing the Shires of Capel, Waroona and Boddington into the board's jurisdiction when they declined to participate?

Hon KAY HALLAHAN: I am not aware of the history of that circumstance.

An increase in building activity was referred to by Hon Margaret McAleer.

Hon Margaret McAleer: I referred to a slight decrease in total building, but a 10 per cent increase in the owner-builder element.

Hon KAY HALLAHAN: So we have had an increase in the builder element?

Hon Margaret McAleer: No, it is a decrease. In the first year 175 applications were received and the total figure for the second year was 171. However, between those two years a 10 per cent increase occurred in the owner-builder element.

Hon KAY HALLAHAN: The research is rather skimpy, and it is not useful to use those percentages to say that an increase occurred in builders - owner-builders or otherwise - applying for licences to build to justify the deletion from the Bill of reference to the Shire of Irwin. Hon Eric Charlton was rather kind in referring to Hon Margaret McAleer's "research".

Hon Margaret McAleer: It was not my research; he referred to the shire's research.

Hon KAY HALLAHAN: Then he was not kind to the member at all! He referred to this research to support his position, yet we do not know what the research constituted.

Hon E.J. Charlton: Yes we do.

Hon KAY HALLAHAN: Did the shire ask the fishermen?

Hon Margaret McAleer: Those are the shire's figures.

Hon KAY HALLAHAN: The fishermen bring in a very tasty commodity, which I, like many other people, enjoy on occasions.

Hon E.J. Charlton: I wish we on this side of the House could afford it!

Hon KAY HALLAHAN: These fishermen seem to have a great influence on members opposite.

I ask members opposite to reconsider the situation. We do not think that the Opposition's position is sensible. I suppose the only encouraging thing about it is that, after the horse has bolted and after people have thousands of dollars worth of problems and no way of rectifying them - it will be too late for those people who have the problems because they will not be covered by the board - members opposite will come to the Government and say, "We made a mistake; the Shire of Irwin should have been left in the Bill."

Hon Margaret McAleer: I think you are misrepresenting us, Minister. We suggested that the shire might find that it had made a mistake, not us.

Hon KAY HALLAHAN: It would be very nice if members of Parliament who represent the people of that area accepted a bit of responsibility. It is very easy for them to say that the shire said this or that.

Hon E.J. Charlton: We do not want you to go up there with any of your shonky builders and create problems.

The CHAIRMAN: Order!

Hon KAY HALLAHAN: I am sure the Builders Registration Board and the Master Builders Association would take Hon Eric Charlton to task over his reference to shonky builders.

Hon Margaret McAleer referred to building providing a local source of employment. It is clear that builders in that area would employ local people. Therefore, I do not think that is a tenable argument.

Hon Margaret McAleer: If it were only those builders, yes. However, builders from outside would not necessarily use local tradesmen.

Hon KAY HALLAHAN: I understand that they may not necessarily bring in their whole teams; they may bring in some tradesmen, particularly if the area is inundated with owner-builders who only want to build their own homes. I guess other people need residences built from time to time.

I can see that I am not persuading members, but the Government feels strongly about this matter. It believes that the Shire of Irwin should be included in this Bill despite the position put by members on behalf of the Shire of Irwin and not on behalf of the residents. The Government therefore supports the motion.

Question put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I give my vote with the Ayes.

Division resulted as follows -

Ayes (12)		
Hon J.M. Berinson	Hon Kay Hallahan	Hon Bob Thomas
Hon J.M. Brown	Hon Tom Helm	Hon Fred McKenzie
Hon T.G. Butler	Hon Garry Kelly	(Teller)
Hon Cheryl Davenport	Hon Sam Piantadosi	
Hon John Halden	Hon Tom Stephens	
Noes (13)		
Hon J.N. Caldwell	Hon Peter Foss	Hon Derrick Tomlinson
Hon George Cash	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon N.F. Moore	Hon Margaret McAleer
Hon Reg Davies	Hon P.G. Pental	(Teller)
Hon Max Evans	Hon R.G. Pike	
Pairs		
Hon Graham Edwards		Hon Muriel Patterson
Hon Doug Wenn		Hon Barry House
Hon B.L. Jones		Hon Murray Montgomery
Hon Mark Nevill		Hon W.N. Stretch

Question thus negatived; the Council's amendment insisted on.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

STATE SUPPLY COMMISSION BILL*Second Reading*

Debate resumed from 31 October.

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [5.56 pm]: The principal aims of the Bill are to provide a framework for supply management in Western Australia, to establish clear responsibility for supply policy coordination across the whole of Government, to introduce modern and professional practices, to improve Government tendering for strategic common use contracts, and to allow flexibility in operational procedures under guidelines. It is very important to establish a central coordinated policy with decentralised management of operational procedures.

A number of amendments were foreshadowed by the Opposition. I have discussed them with the Minister responsible for the carriage of this Bill in another place and, after those extensive discussions, I advise the House that the Government will not agree to the amendments. I will go into that in depth at the Committee stage.

Matters have been given very thorough consideration and there are good reasons for not accepting the amendments. We are putting forward a new structure for Government purchasing and coordination which involves millions and millions of dollars of Government expenditure each year. It is very important that this structure be soundly based. For that reason, and although the Government always seeks an accommodation on legislation, the Government believes that, were those amendments in place, they would not add to but rather would detract from the operation of the Act when proclaimed.

Sitting suspended from 6.00 to 7.30 pm

Hon KAY HALLAHAN: I will conclude my remarks at this stage because some debate has taken place and the second reading speech clearly outlined the Government's position on this Bill. I am sure further discussion will take place at the Committee stage. Given that there is no room for compromise with regard to the amendments, I ask members to support the Bill as it stands.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

Clauses 1 to 6 put and passed.

Clause 7: Directions by Minister -

Hon R.G. PIKE: I move -

Page 4, line 13 - To insert after "shall be" the following -

- (a) published in the *Gazette* and laid before each House within 6 sitting days of its being published if Parliament is then in session or within 6 sitting days of the commencement of the next ensuing session; and
- (b)

The Opposition takes the view that, given the Government's undertaking as a consequence of the Burt Commission on Accountability, the clause as it stands does not provide for sufficient accountability; that is, subclause (2) proposes that the Minister of the day shall include in the annual report of the commission any direction that the Minister may give to the commission. The annual report of a statutory authority, or of any authority for that matter, may be published between six and eight months after the time it should be, and sometimes longer. Therefore, given the fact that the Opposition supports quite directly the proposition

that the Minister of the day should have the authority to so direct - indeed it is one of the functions of the commission - it quite positively takes the view that the direction should be such that it shall be published as soon as possible in the *Government Gazette*; and if the House is sitting, it is to be tabled within six days; if it is not sitting, it is to be tabled within six days of when the House next sits. The accountability and perhaps volatility of the Minister's direction will thus be made known immediately to the Parliament.

Hon KAY HALLAHAN: The Government does not agree with the proposition put forward by Hon Bob Pike. The Government's strong position is that this clause carries out the spirit and the requirements of the Burt Commission on Accountability, and that to record the Minister's directions in the annual report will provide a public record of those directions and of the interaction between the Minister and the board in the previous 12 month period.

It would be very easy for members opposite to claim that greater accountability is required. Hon Bob Pike has indicated informally that it is his desire that this type of amendment be included in every piece of legislation. I believe there is no case for such a requirement, and I challenge the members of the Committee to look very carefully at their role and at whether the Parliament wants to become part of the administrative system on a day to day basis. It could quite clearly be counter claimed that it is simply a requirement to make public the directions given by the Minister. The Government contends that if those directions are published in the annual report they will be available for public scrutiny. We believe that is a strong and reasonable position, and we are not attracted to the proposed amendment.

Hon R.G. PIKE: Neither the Minister nor anyone else in this place ought on the floor of the Chamber to refer to an informal conversation. Hitherto, that matter has never been breached, and I am sorry the Minister has done so on this occasion.

This Bill proposes that the State Supply Commission will supervise and be responsible for expenditure in excess of \$1.5 billion per year. The Minister may make a determination to direct the commission. For example, it may be less expensive to buy a product in Perth than from Widgiemooltha and the Minister may give a direction - which we acknowledge is the Government's right - that the product be bought from Widgiemooltha. We are merely saying that where a Minister who is properly accountable makes a decision which involves a large sum of money, that decision should be published in the *Government Gazette* as soon as possible. We are not seeking to interfere with the administrative system. We are merely asking the Minister of the day to be accountable immediately.

Hon KAY HALLAHAN: We will not be able to agree on this matter. Ministers will be aware that any directions they make have to be published in the annual report, and they will exercise due regard in giving those directions, knowing that that annual report will be tabled in this place. I ask members to vote against the amendment.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows -

Ayes (13)		
Hon J.N. Caldwell	Hon Peter Foss	Hon Derrick Tomlinson
Hon George Cash	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon N.F. Moore	Hon Margaret McAleer
Hon Reg Davies	Hon P.G. Pandal	(Teller)
Hon Max Evans	Hon R.G. Pike	
Noes (12)		
Hon J.M. Berinson	Hon B.L. Jones	Hon Doug Wenn
Hon J.M. Brown	Hon Garry Kelly	Hon Fred McKenzie
Hon John Halden	Hon Sam Piantadosi	(Teller)
Hon Kay Hallahan	Hon Tom Stephens	
Hon Tom Helm	Hon Bob Thomas	

Pairs

Hon Muriel Patterson
Hon Barry House
Hon W.N. Strech
Hon Murray Montgomery

Hon Graham Edwards
Hon T.G. Butler
Hon Cheryl Davenport
Hon Mark Nevill

Amendment thus passed.

Clause, as amended, put and passed.

Clause 8: Membership of Commission -

The DEPUTY CHAIRMAN (Hon Garry Kelly): I draw members' attention to the Supplementary Notice Paper, where amendments to clause 8 stand in the name of the Minister for Planning, page 4, lines 18 to 29, and other amendments stand in the name of Hon Bob Pike, page four, lines 19 to 20. The Minister's amendments will have priority because they commence at an earlier part of the Bill, but were the Committee to accept the Minister's proposed amendments, the Committee would be able to consider Hon Bob Pike's amendments to clause 8 only at the conclusion of the Committee stage and after the Bill has been recommitted to consider clause 8. That is, if Hon Bob Pike wishes to pursue his amendments, assuming the Committee has agreed to the Minister's amendment.

Hon R.G. PIKE: I move -

That consideration of clause 8 be deferred to a later stage of this day's sitting.

I do that because I had no notice that the Bill was coming on for debate. I had discussed with the Clerk this order of submission and I do not wish to proceed with what is going to be quite a complicated method of proceeding.

Further consideration of the clause postponed, on motion by Hon R.G. Pike.

Clauses 9 to 36 put and passed.

Postponed clause 8: Membership of Commission -

The DEPUTY CHAIRMAN (Hon Garry Kelly): The question is that clause 8 stand as printed.

Hon R.G. PIKE: I am sorry, Mr Deputy Chairman; I may not have used the correct words but I want to make it clear, and in fact I did, that the consideration of clause 8 should be postponed for consideration at a later stage of this sitting.

Hon KAY HALLAHAN: Hon Bob Pike has indicated he was not aware that the Bill was coming on. He seems to believe there is something to be gained by a discussion on the Bill and the amendments before we proceed. The Bill was in a prominent position on the Notice Paper and there was no desire to catch the member unprepared to proceed with the Bill; however, I have no objection to a short delay in this evening's proceedings and to a deferral of this matter to a later stage of this sitting.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon Kay Hallahan (Minister for Planning).

[Continued on p 7478.]

PROROGATION OF PARLIAMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had rejected the Bill.

MOTION - STATE GOVERNMENT INSURANCE CORPORATION

Capital Increase Regulations - Disallowance Motions Withdrawal

Amendments to Motion

HON J.M. BERINSON (North Metropolitan - Leader of the House) [7.56 pm]: I move -

That subparagraphs (a) and (c) of paragraph 2 of the motion and all words after "completed" in subparagraph (e) of paragraph 2 of the motion be deleted.

The motion by Hon Peter Foss is in three parts. The first seeks to require that I make a statement to the House on the matters which he has outlined. The second calls for the tabling of papers specified in subparagraphs (a) to (e) inclusive of paragraph 2. The third seeks to give to the statement, tabled documents and any motion arising from them the status of a matter touching the privileges of the House. I will deal with each of these three elements in turn.

As to the first part of the motion which calls on me to make a statement within a specified time, I can indicate only that I have no objection. In fact, I have previously put in writing to the Leader of the Opposition the undertaking that with or without this motion being passed I would make a statement of the general nature that this motion is directed towards. I have acknowledged on a number of occasions that I was a party to the agreement to which Hon Peter Foss' motion refers and I acknowledge a responsibility to respond to any criticism which has since been made as to the extent to which that undertaking has been met. I therefore make it clear that so far as paragraph 1 subparagraphs (a) to (e) is concerned, I support the motion.

The second part of the motion calls for the tabling of certain documents, and five categories of documents are referred to. My amendment indicates the objections which I have to the House's calling for the documents referred to in subparagraphs (a) and (c) of paragraph 2. As indicated, subparagraph (a) refers to all draft legislation relating to the carrying out of the undertakings; subparagraph (c) refers to all position and discussion papers relating to the carrying out of the undertaking. Whatever else the Opposition may have to say it can hardly complain that its calls for the tabling of documents have not been responded to in full. I thank Hon Max Evans for the nod of his head. Whole forests have been sacrificed -

Hon Max Evans: Don't spoil a good speech.

Hon J.M. BERINSON: - to reply to requests for documents, very many of which have never served any useful purpose since.

Hon George Cash: Yes, they have.

Hon J.M. BERINSON: I do not complain about that, or criticise it in any way, because there is no doubt that the Opposition is entitled to make its own collection of documents for further use and there is no denying it has made a careful selection and has used those documents appropriately.

Hon Max Evans: There are still more to come.

Hon J.M. BERINSON: There are indeed more to come. Hon Max Evans today moved a motion which called for -

Hon P.G. Pendal: More trees.

Hon J.M. BERINSON: - another group of documents. I frankly do not know how many are involved, but if the length of the list is any reflection, we will again need a trolley. Nonetheless, the point I am making cannot be denied. The Opposition in this Parliament has made unprecedented requests for documents in terms of volume and every one of those has been met in full either on the due date or before the due date. Again, I believe that members opposite would acknowledge that there were a number of occasions where the documents were provided as soon as they became available to us even though that was in advance of the required presentation date.

On this occasion, however, Hon Peter Foss has really gone beyond all reasonable bounds, and I do not think it is going too far to say that in respect of the documents referred to in subparagraphs (a) and (c) of paragraph 2 he is indeed adopting a provocative approach which almost positively invites rejection.

Hon George Cash: Is that in respect of the draft legislation?

Hon J.M. BERINSON: Yes, that is one set.

Hon George Cash: Why is that being provocative when that is what you promised some time ago under your own signature?

Hon J.M. BERINSON: Are you referring to the series of draft legislation?

Hon George Cash: You said that you would put into effect legislation to carry out the

undertaking that you gave to Hon Peter Foss, Hon Max Evans and others under your own signature and under the signature of others.

Hon J.M. BERINSON: Please go on to quote any undertaking that draft legislation was to be presented in the course of preparing final legislation.

Hon Peter Foss: Where is the final legislation?

The DEPUTY PRESIDENT: Order! I am having difficulty as there is too much cross-Chamber discussion on this matter. I ask the Leader of the House to continue.

Hon J.M. BERINSON: I have acknowledged often enough the undertaking to which I was a party, but I do not think I am obliged to acknowledge an undertaking that was not given.

Hon George Cash: Is the word "draft" causing the problem? We will be happy with the legislation.

Hon J.M. BERINSON: Hon George Cash will get the legislation when it is ready to be presented. I was trying to say, which I think should go on record, that while I am prepared to accept the obligation of any undertaking to which I am a party, I do not believe that I should be held to honouring obligations that I have never given and in fact never suggested. Hon George Cash's last interjection was quite wrong in suggesting that there was an undertaking to provide draft legislation. I want to make that clear. In spite of the willingness of the Government at all stages to provide requested documents and records, there has always been an understanding not only on the Government side but also on the Opposition side that there are certain limits to that process, just as there are limits, for example, to the type of questions to which answers can reasonably be required.

It has always been understood, and in 10 years in this House I have never heard it questioned, that Cabinet and ministerial discussions and papers are entitled to be held confidential. Hardly any such documents would fit the bill better than draft legislation. What the Government is to be held to is the legislation which it produces in final form for the agreement of the Parliament. The form which that legislation takes is the responsibility and the business of the Government alone. I do not need to remind anyone in this House that the legislation which is presented is subject to amendment in the Parliament and we have no limit to examples of that kind; but the legislation itself is the Government's legislation and the form in which it is presented to the Parliament is entirely at the option of the Government. There is no obligation on the Government to produce its draft or interim Bills representing, as they often do, an approach which is not reflected in the final decision of the Government.

What I am trying to put to the House is that in respect of Bills the only matter which is subject to perusal is the Bill for which the Government asks the support of the Parliament. The Government is not obligated to present the sort of record that successive drafts of that Bill might reflect of how the Government's thinking has developed along the way; there is nothing to oblige the Government to produce the sort of documentation which draft Bills represent and which would reflect the nature of Cabinet or ministerial discussions along the way. In exactly the same way there is nothing to require that position and discussion papers which have led the Government to adopt the legislation in its final form should be available to anyone other than the members of the Government required to make a decision on the drafting of the Bill. I do not exalt that sort of documentation with words like "Executive privilege" although that is a handy shorthand term for it. All I am doing is reminding members, as they already know, that it is well understood that certain categories of Government discussions, documentation and business have always been acknowledged as entitled to confidentiality. That has been acknowledged on innumerable occasions in this House when a response along those precise lines has been accepted by members asking questions which would have intruded into that general rule.

In a way I am glad that the sort of document to which I am objecting has come up in this motion. Had it been relevant to other motions such as the one which Hon Max Evans moved today, or to others he has moved going into the details of certain commercial activities, it might have been alleged that an argument against presentation was based on a fear of embarrassment. That cannot arise in this case; we are not talking about the Opposition's favourite subjects of WA Inc, and so on.

Hon P.G. Pandal: The people's favourite subject.

Hon J.M. BERINSON: What we are talking about is the implementation of steps which Government representatives undertook to take. The extent to which the Government has proceeded to that implementation will become crystal clear in the statement which I have indicated I am more than prepared to make. Nothing will be added to that by the production of draft Bills, none of which has any force, none of which will ever be presented to the Parliament, since they have been overtaken by current drafts, and none of which can hold the Government to anything. Certainly none of them can involve any embarrassment to the Government. The Government will be judged for good or ill on the Bill which it presents. There is no question of its being judged on draft Bills which it does not present.

Hon George Cash: Are you confirming that draft legislation has been prepared?

Hon J.M. BERINSON: I am prepared to say that a number of drafts of a Bill have been drawn and again I repeat that I am perfectly happy to indicate the extent of work which has been done so far and what the prospects are in terms of any future timetable. Members will notice that I have not complained about being called on in paragraph 2(d) to provide a timetable. I have not complained about any of the matters on which I am asked to comment in the course of my statement. In fact I would be most surprised, although I confess I have not gone into the details since I am not in a position to prepare the statement, that anything that interests Mr Foss in subparagraphs (a) and (c) of paragraph 2 will reasonably enough be indicated in the statement covering his subparagraphs (a) to (e) in paragraph 1.

To summarise what I am saying in this respect: I have no objection to a statement covering the whole gamut of the subject matter that Mr Foss has set out in his paragraph 1. It is probably reasonable to suggest that the interest which has led him to include subparagraphs (a) and (c) of paragraph 2 will be satisfied by what my statement says. I cannot be too certain about that, because I have not been involved in the detail of these matters and I have to rely on advice which will be collated for me.

Hon Peter Foss: I hope it will be better than the last statement you made.

Hon J.M. BERINSON: Which was the last statement?

Hon Peter Foss: The last statement you gave the House about the present state of carrying out the undertakings. This statement would have to be a lot better and more condescending to detail.

Hon J.M. BERINSON: I do not remember the last statement.

Hon Peter Foss: I can assure you it was unmemorable.

Hon J.M. BERINSON: If I recall what Mr Foss is talking about, it was a response to a question without notice.

Hon Peter Foss: No, you gave me a written reply.

Hon J.M. BERINSON: I will look at it again.

I could hardly refrain from providing particulars when the motion specifies so many. I have indicated that I am prepared to ask that the statement prepared for me covers all those matters. I again make clear that in the first place I have no objection to the statement, nor to its including the whole range of matters specified in Mr Foss' motion. I have no objection to that part of the motion which calls for the tabling of documents which do not fall within the category always accepted in this House as being matters entitled to remain confidential.

I do object to going beyond all those established bounds and that is what subparagraphs (a) and (c) of paragraph 2 do. To conclude this part of my summary, I repeat, as must be observed, on the face of it this whole motion is not of a nature to cause embarrassment and, certainly, preliminary drafts of a Bill which will never see the light of day in terms of actual parliamentary implementation do not offer any grounds for embarrassment. To that extent I am indebted to Mr Foss for raising issues of this kind in an unembarrassing context.

The third part of the motion says that the consideration of the statements, tabled documents and motions arising therefrom and relating to the undertaking be dealt with as a matter touching the privileges of the House. That is a fancy way of saying that when Mr Foss' motion is responded to discussion on that should immediately be given absolute priority over every other matter at that time before the House. It is all dressed up by describing it as a subject which should be dealt with as a matter touching the privilege of the House.

Hon Peter Foss: Did you deal with the question of whether it is in that character?

Hon J.M. BERINSON: Certainly. In case you did not catch that small interjection, Mr President, Mr Foss has asked me to deal with the question of whether this is indeed a matter of privilege. I think his own motion answers that question because the last part of it does not even assert that it is a matter of privilege but says it should be treated as if it were a matter of privilege. Mr Foss was very wise to express himself in those terms because this is quite clearly not a matter of privilege. The significance of all of this is that matters of privilege are given precedence by the effect of Standing Order No 157, which states -

Whenever a matter or question directly concerning the privileges of the Council, or of any Committee or member thereof, has arisen since the last sitting of the Council, a Motion calling upon the Council to take action thereon may be moved, without notice, and shall, until decided, unless the debate be adjourned, suspend the consideration of other Motions and Orders of the Day.

That Standing Order reflects the significance given to a matter of privilege. I repeat that this motion does not assert that its content raises a matter of privilege; what it says is that it should be dealt with as a matter touching the privilege of the House. It does not assert it is, but says we should treat it as though it were; in other words, Mr Foss - and not for the first time, if I may say so - is producing a situation to meet his own definition. He is defining the situation as a matter of privilege. He is not claiming it comes within an established category of privilege. I suggest the reason he has not done that is because he cannot do it. He is, therefore, simply asserting that it is a matter of privilege and seeking to achieve that aim by means of a definition.

By means of a definition this House could resolve anything. It could resolve by definition that black is white, or night is day, or that the Opposition is actually the Government. A resolution of that kind could be passed, but it would not make it so. It does not make it a fact; all it amounts to is an exercise by the Opposition using the acknowledged effectiveness of its numbers.

Hon D.J. Wordsworth: Nobody is in the Chamber making the numbers on your side.

Hon J.M. BERINSON: As long as Hon David Wordsworth is listening I know I am halfway there. I know he is a reasonable man and he cares about Standing Orders. He knows what a matter of privilege is and he knows that this is not one.

Hon Peter Foss: What about the people who do not carry out their undertakings to the House; do you just forget them?

Hon J.M. BERINSON: I am not forgetting anything. I assure the member that the statement I will produce will go precisely to the matters he asked to be dealt with. This is so far from being a matter of privilege that Mr Foss did not see any point in the course of moving his motion in attempting to demonstrate that it was a matter of privilege. Here is an important final sting in the tail of this motion, but he just passes it off on the basis that if he says so and the numbers support him, then that is what it is. I have news for him. It does not matter what the motion is, or whether it is carried or we have to conform with it or not; that does not change the fact, which is that this is not a matter of privilege. If any other reflection of that fact was required it is to be found in the total silence of Mr Foss who was so fulsome on all other matters but silent on this aspect of his motion when he came to move it.

Hon George Cash: Mr Foss is getting ready to respond adequately to you.

Hon J.M. BERINSON: I am sure he will respond. I am sure he will respond adequately by the standards of the "Leader of the Opposition." However, he will not be able to respond adequately by the standards of anyone prepared to look at the realities of the position of the well established standards of this Parliament and all Parliaments and who is prepared to take into account, as well, established authority.

We have a useful summary of what is and what is not privilege in the report of the Parliamentary Standards Committee which was presented to this Parliament in 1989. I refer to page 12 of the report, paragraph 3.1, headed "Parliamentary Privilege Defined". I would think the heading of this paragraph is as clear as we would like to have if we are looking to define what privilege is. The heading could hardly be clearer than that. I shall read from this report as follows -

Erskine May provides the following definition which this Committee is pleased to adopt:

"Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by members of each House individually, without which they could not discharge their functions;

I repeat that: "without which they could not discharge their functions". I interpolate an invitation to Mr Foss to suggest how anything in his motion could be related to that fundamental aspect of parliamentary privilege. I take the definition up by continuing the quotation -

... without which they could not discharge their functions; and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law. ... The particular privileges of the Commons have been defined as: 'The sum of the fundamental rights of the House and of its individual members as against the prerogatives of the Crown, the authority of the ordinary courts of law and the special rights of the House of Lords'".

Paragraph 3.1 continues -

The privileges of Parliament refer to those *rights, powers and immunities* which in law attach to the individual Members of a Parliament and to the Members collectively forming the Houses of Parliament.

They exist to enable parliaments to operate without interference.

For the life of me I cannot understand how any of Mr Foss' complaints about the satisfaction or non-satisfaction of undertakings to which he has referred can be matched against that clear statement of when the privileges of the House and its members arise. That totally eludes me. I am quite sure that it eludes Mr Foss as well. I have no doubt that he will mount an argument to the contrary. He has a terrific capacity for mounting arguments on any lines he chooses. I have no hesitation in saying that if I wanted an advocate to stand up for me I could hardly do better than Mr Foss if I wanted someone who was really dogged in his determination to make a case, irrespective of the facts or the merits. I acknowledge his capacity there. I do not accept, however, that even his abilities are sufficient, if the matter is looked at on its merits, to provide the question of an undertaking with the force of the privileges of this House.

I deliberately refrain from any discussion of the merits of Mr Foss' complaint about the satisfaction or non-satisfaction of the undertaking which we both acknowledge exists. That is not the point of this motion.

Hon Peter Foss: It may be the point of the next one.

Hon J.M. BERINSON: It may indeed. That is why I can see no purpose being served by entering into that aspect of the question now.

Hon Peter Foss: Might such a motion not be one touching the privileges of the House if you have not carried out your undertaking?

Hon J.M. BERINSON: No. Mr Foss keeps confusing the roles in which he acts. I have said before that he often wants to be accepted as a legal professional while acting as a professional politician. In this case I have observed that the ways in which he represents the undertaking and his role in it change from time to time. Sometimes he attempts to suggest that the undertaking was given to him personally.

Hon Peter Foss: I have never suggested that. I wrote to you the other day to clarify that.

Hon J.M. BERINSON: At other times it is suggested - and I have suggested it, in fact - that the undertaking was given to him as a representative of his party.

Hon Peter Foss: I totally agree with that. It has never been suggested otherwise. I wrote to you the other day to clarify that.

Hon J.M. BERINSON: An undertaking was given to the honourable member as a representative of his party. He will claim that the undertaking has not been honoured, and in

due course I shall indicate that it has been honoured. But whether it has been or whether it has not does not reflect on the privileges of the House. It may indicate whether an undertaking to Mr Foss' party has been met, but it cannot by any stretch of the imagination indicate whether the privileges of the House have been breached. An undertaking to Mr Foss' party does not raise the question of the privileges of the House, and there is nothing in the interchange which went on before which could conceivably be brought within that comprehensive definition in the report of the committee, taken in turn from Erskine May.

Hon George Cash: Once that is carried it can be claimed to be touching on the privileges of the House.

Hon J.M. BERINSON: I have already told the Leader of the Opposition that if he claims that this Notice Paper is printed on black paper, and he gets his members in their usual sheepish way to follow him to the carriage of that motion, we will have a motion on the books that that paper is black. But that will not make it black.

Hon George Cash: Yes, it will, because . . .

Hon J.M. BERINSON: Oh, it will make it black, will it? Now we are really in fantasy land! Now we have an acknowledgement from the Leader of the Opposition that provided this House carries a motion that the earth is flat, the earth is flat. If it carries a motion that this paper is black, it is black, although we can all see that it is white. If we carry a motion that we are currently talking at midday, we will be talking at midday. Mr Cash might believe that, but I do not think even Mr Foss would believe that. I urge members on the other side of the House not to believe it, because they will be leading themselves astray and creating a position where, if anyone were to take any serious notice of what we are doing, we would be leading ourselves into a position of ridicule.

Hon George Cash: You attempt to misrepresent the position.

Hon J.M. BERINSON: I do not misrepresent it at all. The Leader of the Opposition said that himself.

I do not wish to carry that part of the argument any further. The position is crystal clear. It does not matter what the motion says, the subject matter of it does not involve the privilege of the House. Since it does not involve the privilege of the House, it should not put the House in the position of making a determination to the contrary. One has to ask why it is necessary for Mr Foss to include this addendum to his motion anyway. We have had many motions carried in this House previously requiring a statement, requiring the tabling of papers, the setting of time limits and so on. Those requirements, as I have indicated previously, have been met. If they had not been met, it would have been open on very short notice to a motion requiring their discussion. Usually, when a statement of that sort is made, the motion from the other side is that consideration of the statement be made an Order of the Day for the next sitting of the House.

We have learnt this week, as we have learnt many times, an Opposition can bring up such a motion for debate at very short notice. It only takes one day at most to bring the sort of notice to produce that result. The question therefore arises: What is so special about this motion that it should carry this addendum? The unfortunate conclusion to which I come is that the only special thing about the motion is that Mr Foss has moved it and that he wants to insist at every possible opportunity that matters which he raises receive some priority of attention over the ordinary business of the House.

Going wider than the subject matter of the present motion, the Opposition as a whole over this week has shown a very unfortunate tendency to take over the business of the House. Today we started off with the moving of two motions, quite properly, at the outset. We then moved on by order of the House yesterday to give priority consideration to an earlier motion by Mr Foss that related to the establishment of a Select Committee. Counting question time, that took us to the best part of 5.30 pm, and we knocked off at 6.00 pm in the usual way. Shortly after the resumption at 7.30 pm we were again on a motion by Mr Foss, this time as the result of an arrangement -

Hon George Cash: By agreement.

Hon J.M. BERINSON: That is the point I am making. It was as the result of an agreement. I am pleased that the Leader of the Opposition acknowledges that this part of the proceedings

has come on at this time by agreement. I have previously explained to the House that we have an agreement whereby I accept that any Opposition move nominated by the Leader of the Opposition to have priority attention will be given priority after the dinner break on Wednesday nights. However, what Mr Foss wants to do is not only to have that arrangement - which in my experience is unprecedented in this House and certainly was a provision never offered to the Opposition in earlier days - but also to keep popping up with clever devices which give priority to other matters as well.

Yesterday Mr Foss moved to give priority to his Select Committee motion, and that was a priority in addition to whatever matter would be nominated for the Wednesday night by the Leader of the Opposition. Tonight we have a motion of Mr Foss', which in advance seeks to give the further consideration of this motion priority - when the motion is responded to. At the end of the day we will end up with whole days devoted to Mr Foss' priority simply because he is prepared to apply himself to all these fancy manoeuvres. Those manoeuvres cannot be justified, given the arrangements that we have; they are not necessary, given our experience with the orderly dealing with matters which require consideration. There is nothing to suggest that at the end of the statement which will be made in response to the substantive part of the motion an opportunity will not arise or be given for further discussion; but there is every argument to say that we should not treat everything that Mr Foss thinks of in this House as a matter requiring priority at every stage of its consideration.

That is the stage we are reaching. I do not think we should go further along that path. We should particularly avoid that path when it would involve the House in making a determination which is, as a simple matter of fact, wrong. It would entail us in a determination that Mr Foss' motion involves a question of the privileges of the House. It does nothing of the sort. I therefore ask the House to support the amendment which I have moved and which, among other things, will give us the opportunity to avoid placing ourselves at ridicule well deserved.

HON PETER FOSS (East Metropolitan) [8.49 pm]: The most interesting thing about the speech of the Leader of the House was the way in which he started. He spoke with some pride of the fact that when this House ordered him to produce documents, he had always produced those documents - as if this were in some way a special commendation for a good act done by him.

Hon J.M. Berinson: I simply stated it as a matter of fact.

Hon PETER FOSS: The Leader of the House seems to take some pride in that fact, yet he misses the point that as a member of this House, when he is ordered by this House to do something, he is obliged to do it. It is not a matter of patting himself on the back.

Hon J.M. Berinson: I did not pat myself on the back. Why do you have to start exaggerating so early in your comments, Mr Foss?

Hon PETER FOSS: Just listen. The Leader of the House is obliged to comply with an order of the House.

Hon J.M. Berinson: I do not need a lecture on it. I have always acknowledged that I am obliged to provide papers; however, I have not acknowledged that I am obliged to provide these papers.

Hon PETER FOSS: The Leader of the House is obliged to comply with the order of the House. If he does not it would become a matter of the privilege of the House as he would be in contempt of this House and the House would have to take appropriate action.

Hon J.M. Berinson: I have always been worried about that, Mr Foss.

The PRESIDENT: Order! So that everybody knows what we are debating, we are discussing specifically whether the subclause to which I referred should be deleted. We are not talking about the substance of the original motion; we are talking about whether the deletion should take place.

Hon PETER FOSS: I was replying to a matter specifically raised by the Leader of the House during his speech on his motion to amend the original motion in which he said that it was not necessary to present the papers in question because whenever the House had made an order the Leader of the House had always complied with that order. The fact that he has complied with orders in the past is a matter of little significance because he is obliged to comply with

the orders of the House. That is an example of a matter touching on the privilege of the House, which is dealt with in the third part of this motion. If the House requires something to be done, and it is not done, it is dealt with as a contempt of this House.

Hon J.M. Berinson: It depends on what is ordered and whether it is within the powers of the House to order.

Hon PETER FOSS: I will deal with that later. First I will deal with the Leader of the House's track record, which he raised, and I will deal with the particular documents a little later. The Leader of the House also dealt with the general principle of this, so I shall also refer to that later.

This is a matter which the Leader of the House is obliged to carry out as an order of the House. It is not a matter of great commendation that he has complied in the past as it is a pity that all too often it is necessary to move a motion that documents be tabled because the Leader of the House has failed to do so voluntarily. I would agree entirely with the comment of the Leader of the House in that no obligation exists for matters such as those referred to in paragraph 2 of his motion be produced. It was with considerable reluctance that those two matters were included, and I shall indicate to the House why that reluctance was overcome by events.

This undertaking was given in May and the Leader of the House has not indicated - although I requested that he do so - what appropriate measures the House may use if, firstly, the undertaking is not carried out, and, secondly, if a person flatly refuses to carry it out.

Hon J.M. Berinson: I do not concede that it has not been carried out.

Hon PETER FOSS: I would be interested to know what the Leader of the House believes to be the appropriate response to such a circumstance.

Hon J.M. Berinson: I have no objection to the first part of your motion which calls for an explanation.

Hon PETER FOSS: Had a person decided not to carry out the undertaking, would he regard that as a matter touching on the privilege of the House?

Hon J.M. Berinson: No, I would regard it as an issue on which you could take further action, but it would not be a breach of the privilege of the House.

Hon PETER FOSS: The Leader of the House gave the undertaking in a particular context. At the time that undertaking was put forward for use, a motion was before the House. The House was about to proceed with a motion to set aside two regulations of the State Government Insurance Office. The motion was moved and was before the House; however, it could not be moved again because of the fixed period in which it could be considered. So that opportunity has now been lost to the House. Furthermore, the motion was moved shortly before two State by-elections. On the date of that undertaking - as it was described to the House by the Leader of the House and by me - I sought leave of the House to withdraw that motion. One dissenting voice could have prevented that motion from being withdrawn. In fact, some members on my side of the House believed that the motion should have gone ahead, notwithstanding that I and Hon Max Evans recommended that it should not go ahead.

Hon J.M. Berinson: Notwithstanding the effect that it would have had.

Hon George Cash: Hon Peter Foss was able to convince Opposition members of that course of action.

Hon J.M. Berinson: That is a remarkably irresponsible thing to concede.

Hon PETER FOSS: That is another matter we could debate.

However, the fact is that this House had a right at that stage to decide that the Government could not be trusted to carry on with what it was doing at the SGIO. Some members of this House were entitled to believe that the motion should have been proceeded with and the activities of the SGIO should have been stopped and the SGIO should have been closed. In retrospect one must wonder whether to some extent those members were not correct, because the basis on which we allowed the SGIO to keep its doors open was the understanding of the signed word of the Government that it would do certain things to make the SGIO satisfactory. We allowed it to continued on the basis that the Government would put an end

to the abuses of the SGIO, which were identified in the McCusker report. The Government called it an error of judgment, and I call it an abuse of proper procedure of the two corporate bodies; that is, the commission and the office. We would have been fully justified in saying that the abuse must stop in one way or another. We accepted that the abuse would stop because the word of certain people could be trusted, as they were regarded as people of honour.

Hon J.M. Berinson: I repeat, do you understand that I do not accept that any undertaking has been breached at this stage?

Hon PETER FOSS: Precisely, Mr Berinson. I do not wish to suggest that it has been breached until I have had the opportunity to hear an explanation from the Leader of the House. This motion has been carefully drafted not to make that suggestion because until such time as the Leader of the House has explained this matter to the House in an adequate manner, no-one should draw that conclusion. However, I confess that I believe the Government has been incredibly tardy in carrying out its undertaking.

Hon J.M. Berinson: I will not even argue the tardy point at the moment, but surely you will accept a difference between tardy and repudiating an undertaking?

Hon PETER FOSS: That is the point I am considering. The Government has been incredibly lax in seeking to satisfy the concerns of the Opposition. It is not as though I stood up the day after the Leader of the House gave the undertaking and asked what he had done. It is not as if I stood up some months later and asked, "What have you done?" and received a satisfactory answer. I asked those questions and they were forgotten. The Leader of the House apologised to me that he had forgotten about them and gave an explanation. However, I have continued to ask questions and I have received what I believe are unsatisfactory answers. It is not as if I have not tried by informal means, by speaking to the Leader of the House behind the Chair, to raise the matter with the Deputy Premier to get an answer. It is not as if I have not told the Leader of the House that I believe the answers that Mr Michell gave were totally contrary to the answers that I believed he would give.

The PRESIDENT: Order! I return to my original point that the honourable member has to explain to the House why the amendments should not succeed. He cannot make another speech about his original motion. To relate his comments to the comments made by the Leader of the House prior to moving his amendments is out of order because the Leader of the House was speaking in response to the member's motion at the conclusion of which he moved the amendments. The member will have an opportunity at the closing of the debate to answer the other points that were raised. However, at this time he should be telling the House why the amendments should not be passed. He has to be specific about why they should not be passed.

Hon PETER FOSS: I hate to spoil the structure of my speech. However, if I tell you, Mr President, the end of my speech and then come back and work towards the end again, that may satisfy you. I believe the time has come for us to see the evidence of what has been happening. I asked the questions before about what is happening and I have received what I regard to be unsatisfactory and evasive answers.

Hon J.M. Berinson: If I were to say in my statement that we were up to draft Bill No 4, how does it help you to see that and the previous three drafts when the drafting is not complete?

Hon PETER FOSS: That is the very point. We need to be satisfied that there have been attempts to draft this legislation. We need to see that there has been some activity by this Government because I am concerned that mere words now are not sufficient evidence.

Hon J.M. Berinson: So if you were told that we were up to draft Bill No 4, you would not believe me - is that what you are saying?

Hon PETER FOSS: I will be dealing with that because I will be suggesting a further amendment which the Leader of the House may find satisfactory. However, I want to explain, first of all, why these paragraphs are in the motion. I have made several attempts to obtain answers from the Government, both on the floor of this House through questions and informally outside, and I think the Leader of the House could hardly disagree that the answers have not been greatly informative, nor have they given me a great deal of indication of when we might reasonably expect to see the undertakings carried out. Furthermore, to the extent that I have informed the Leader of the House that I believe Mr Michell has allowed a

breach of the undertaking by giving answers different from those he indicated to us, I have seen no action by the Government to deal with that.

Therefore, I think the time has come for us to see what the Leader of the House has to show for the supposed activity that he has been carrying on. He may have given instructions for a Bill, but has he followed up on that? Has anything come out of it? Has he gone back and said, "This is not any good"? We do not want to know so much what the Leader of the House's mental processes are, but whether there have been any mental processes. That is my concern. Has anything been happening?

One of the reasons I ask this is that Mr Max Trenorden had a draft Bill at that first meeting. We suggested originally that we should introduce the Bill and that the Government should undertake to support it. It was said at the time that it would be embarrassing for the Government to have to support the Opposition's Bill. We were told that the Government would introduce it and that we could support it and that would get over the Government's being embarrassed. Foolish people that we are, we agreed to the Government's saving face. We expected that, as the Government had a draft Bill ready to go, it would do something about that in a reasonable period. What has happened? It appears nothing has happened. Does the House wonder why I ask where the legislation is? I suppose I am a doubting Thomas and I am asking the Leader of the House to show me the marks so that I can see that something has happened. I find it hard to believe this Government because, notwithstanding my highly gentlemanly attempts to date to find out what the Leader of the House has been doing, I have hardly seen the Government falling over itself to satisfy the Opposition that it comprises men and women of honour by carrying out its undertaking. That is why I raised the point with the Leader of the House the other day as to why it was incumbent on him and not us to bring up this matter to the House, because I felt it is a matter for adverse comment that he has not brought it up.

Hon J.M. Berinson: You are aware, I am sure, that I indicated to the Leader of the Opposition that I would make a statement with or without this motion.

Hon George Cash: I think it is important that you know that, when I received your letter, I immediately transmitted a copy to Hon Peter Foss so that he was aware of your statement. Notwithstanding that letter, Hon Peter Foss believed it proper to move this motion.

Hon PETER FOSS: I wrote to the Leader of the House immediately after that and fully acknowledged that I was acting on behalf of the Opposition. However, I felt that, having given an undertaking, it was incumbent upon the Leader of the House to progress the matter.

Why should we have to move a motion? The Leader of the House should be anxious to satisfy this House that he is a person who carries out his undertakings. I do not think I should have to move any motion. I believe he should fall over himself to satisfy us.

Hon J.M. Berinson: I don't believe you did want to move a motion.

Hon PETER FOSS: I was not getting very far with questions or with seeing the Leader of the House behind the Chair. That is why I moved this motion.

Hon J.M. Berinson: You don't know how far you were getting.

Hon PETER FOSS: I was not getting answers.

Hon J.M. Berinson: Yes, but you got to the stage where I had requested that these be prepared.

Hon PETER FOSS: This motion sat as a notice of motion on the Notice Paper for nearly two weeks before I moved it. It has sat on the Notice Paper as a motion since 30 October. The Leader of the House has had something like six weeks since I gave notice of motion to deal with the matter, and what has happened? There may have been a lot of activity, but from external appearances it is not obvious.

Hon J.M. Berinson: Do you really think I could give a statement of this extent and complexity within three days if we started tomorrow?

Hon PETER FOSS: No, but I would have expected some signs of activity somewhere along the line when I first asked the Leader of the House about this. Before I moved this motion, I went through the *Hansard* and found that the Leader of the House had apologised to me and said that he would do something about it, yet nothing has happened.

Hon J.M. Berinson: You cannot say that because you do not know what happened.

Hon PETER FOSS: Externally the appearance is that nothing happened.

Hon J.M. Berinson: You said that your amendment was acceptable and I would like to hear it because I would like to accept it.

Hon PETER FOSS: I would be prepared to delete subparagraphs (a) and (c) of paragraph 2 provided that an additional subparagraph (f) could be added to paragraph 1 as follows -

- (f) whether instructions have been given for the drafting of the legislation when and on what dates any drafts were presented to the Government.

I fully agree that these documents should not be ordered to be produced by this House. However, I am driven to this because the Government seems not to have regarded the giving of an undertaking as a serious matter. How can legislation take this long, bearing in mind that the legislation was in draft form and had been specified in the undertaking? Does the Leader of the House wonder why I have made this proposal? That is the reason those points were included and why I wished to know whether there was some sign of activity, because asking questions got me nowhere.

Hon J.M. Berinson: I find that a very acceptable proposition.

Hon PETER FOSS: The reason for the last part is that I believe it touches on the privileges of the House. I do not think there is a doubt whether it touches on the privileges of the House. I would like to know what this House should do when one of the few opportunities it has as one Chamber of this Legislature to deal with delegated legislation is denied. We lost that opportunity.

Hon J.M. Berinson: I suggest two alternatives to your defining this as a privilege of the House.

Hon PETER FOSS: I would be pleased to hear them.

Hon J.M. Berinson: There are two ways at least whereby you can ensure early discussion. One is by the agreement of your leader to have it nominated for next Wednesday night.

Hon PETER FOSS: Let us first deal with another point. If an undertaking were given to this House, and by that undertaking the Government secured the agreement of the House to the withdrawal of a motion, the net effect of which was that the House lost forever the opportunity to exercise a right which -

Hon J.M. Berinson: That is on the assumption that the undertaking will not be honoured. It is an assumption you cannot make.

Hon PETER FOSS: I am not making that assumption. If the Government were to decide the following day not to honour its undertaking, would the Leader of the House consider that to be a matter touching the privileges of the House? I do, and that is why it is here. I am not suggesting at this stage that the Leader of the House is in breach of or has repudiated his undertaking. I had hoped that in his speech he would respond to the question I raised as to why this announcement was made with regard to the corporatisation of these two bodies, an announcement which appears on the face of it - as reported in the newspaper - to contain a statement by Mr Taylor that the Government has put off the other matters being contemplated; that is, the matters relating to the undertaking. If correctly reported, Mr Taylor was indicating his intention to put off the carrying out of that undertaking. I regard that unilateral decision not to carry out the undertaking as a breach of the undertaking.

Hon J.M. Berinson: You are not suggesting that corporatisation would be inconsistent with the undertaking?

Hon PETER FOSS: It does not have to be, but putting off the carrying out of the undertaking because the Government had another agenda would be. On that basis it could be put off indefinitely. I am not jumping to conclusions about whether the Leader of the House has or has not breached his undertaking, but if he has it appears to me that this House has only one way of dealing with a person who persuades the House to give away one of its privileges, to give leave for the withdrawal of a motion: That is to deal with it as a matter touching the privileges of the House. If the Leader of the House has any suggestion as to how the Opposition can enforce such an undertaking, I would be interested to hear it.

It seems to strike at the very basis of how we operate. It was not an undertaking given casually about which there could be some argument and it was not an undertaking without a quid pro quo; it was an undertaking in writing signed by the Deputy Premier and by the Leader of the House. I do not know what further steps we must take to ensure that the Government carries out its undertaking. Must I move that an order be made to carry out the undertaking? Before leave is given for the withdrawal of a motion must some order be made so that I can say that the Government has not carried out an order? That is surely impractical. If the Leader of the House has a good suggestion as to what the Opposition should do if the undertaking is not honoured, I would be interested to hear it. I believe that this is a matter touching the privileges of the House. Because I believe that, I am prepared to agree to the deletion of those subparagraphs. It is not because for one moment I accept the Leader of the House's proposition that it is not a matter touching on the privileges of the House but because I believe it is. Therefore, if the Leader of the House has repudiated his undertaking I believe I can move appropriately because it is an undertaking relating to the privileges of the House.

I have made my point and the Leader of the House understands it. I have been extremely fair all along in trying to give the Government the opportunity to honour its undertaking and to do the right thing. I do not need to keep that last part in the motion because the Leader of the House knows my views and those of the Liberal Party on this matter. We believe it is a serious undertaking given by the Leader of the House and if the Government is not prepared to carry out that undertaking we are left with no alternative but to treat it as a contempt of this House and a contempt for the procedures and rights of this House on the question of the withdrawal of that motion.

Hon J.M. Berinson: I suggest the difference to you, and I welcome the approach you are taking. If you find that the response to the substantive part of your motion amounts to a repudiation of the undertaking you can act quickly. Your motion proceeds on the assumption "whether satisfactory or not".

Hon PETER FOSS: I agree. The point has been made and because it is so clearly a matter touching the privileges of the House I can wait until the Leader of the House has replied. It was very much my intention not to prejudge the case because I could have moved in the first instance saying that the Government had breached its undertaking and something nasty should happen to it.

I have very carefully not done so. It is not a cause for criticism of me that I have not suggested there has been a breach. I have made a very careful decision not to say that because I believe it would be improper, until the Leader of the House has been given the opportunity, to state the case before we have made any decision. So I am happy to take that out, as long as the Leader of the House understands fully that I am taking it out not because I do not believe it is a matter touching on the privileges of the House but because I do so definitely believe that it is a matter touching on the privileges of the House that it is probably unnecessary.

I seek leave to amend paragraph (1) of my motion.

The PRESIDENT: Order! If you want to add a new subparagraph (f) to paragraph 1 you should do that after we have dealt with the Leader of the House's proposed amendments.

Hon PETER FOSS: I am prepared to accede to Hon Joe Berinson's proposed amendments on the basis that I will subsequently move an amendment in the terms I have foreshadowed.

The PRESIDENT: I explain to the House, and particularly to Hon Peter Foss, that the Leader of the House has moved to delete the parts to which I have referred on several occasions. I can determine to put that motion in one shot so that members will vote to delete them all or not to delete any of them, or under Standing Order No 168 I can break it up into three parts, and put the first part and the proposed deletions, the second part and the proposed deletions, and the third part and the proposed deletions. That was the course I intended to follow, until you said in your final comments that you were prepared to go along with the three of them; so unless someone indicates to me that he may support one and not the other, that is the course I propose to follow. Once I have dealt with that, and depending on what is the result, I would be prepared to accept your further amendments, but I suggest that your further amendments would be superfluous if the Leader of the House's amendments were not

successful. They may not be, but you can move them anyway. I will deal with the amendments from the Leader of the House, either totally or in separate parts - and I will work that out when everyone has finished speaking - before I will deal with your amendments.

HON MAX EVANS (North Metropolitan) [9.23 pm]: I thought the Leader of the House would have been more specific. The Deputy Premier said that legislation must be drafted. The Leader of the House was in a difficult situation that night. It was not his problem, but he had to deal with us in this House, and we had our problems. At 7.30 pm I found out that there had been a report on ABC Radio about what was going on, when we had not even completed it. I was so mad that we were double crossed even at that stage of the night that I nearly tore up the document. I feel sorry for the Leader of the House that the Deputy Premier did not take this matter seriously.

The State Government Insurance Commission and the State Government Insurance Corporation are two very important bodies in this State. They are suing Bond Corporation for \$211 million, with little chance of their recovering that money, and they will also have to win their indemnity case. The regulations were changed to delete the references to quarterly accounts, insolvency standards, etc. We pointed out at the time the two major changes that we wanted. We do not need draft legislation. What will the Government's legislation achieve? The Government proposes to split the two boards. That is what the corporation wanted. It wanted to run its own business. The Government originally appointed two separate boards. They became virtually the same board, but we do not require draft legislation to separate them.

The State Government Insurance Commission's guidelines do not allow the corporation to lend to the commission all its investment funds. That should never have happened if the commission was to be in a position of competitive neutrality. I know why that happened; the commission thought it would be easier to make large investments. That action of the commission was illegal or void under its Act, and we do not require legislation to rectify that.

The Leader of the House may be able to explain why we need draft legislation. For some time I have been asking Hon Peter Foss when were we to get some answers. It is no good our both asking questions. The Deputy Premier referred to the requirement for legislation. I know that further down the track he wants to look at corporatisation. However, the two main problems which require rectification are clear and we do not need an investigation which will cost \$500 000. These are two good insurance businesses. They became a mess in 1987 because of Government involvement in their investment policies. The Motor Vehicle Insurance Trust was operating well. Is the Government's investigation another reason why we need to delay the legislation?

Hon J.M. Berinson: I cannot tell you now but a statement will be made next week and I will try to ensure that it is as comprehensive as possible.

Hon MAX EVANS: I am worried about this red herring. Governments love to set up committees and to pay advisers. I thought the Government would not use any more consultants. We will now employ consultants at a cost of \$500 000 to tell us how to run these two good businesses.

The PRESIDENT: Order! The member has already spoken to the main question.

Hon MAX EVANS: I want to know what legislation is being drafted. We have not been given any documentation.

Hon J.M. Berinson: That will come up under proposed subparagraph (f).

Hon MAX EVANS: What is this draft legislation about? I do not believe we need it.

Hon J.M. Berinson: That will have to be referred to in order to respond to Hon Peter Foss' amendment.

Amendments put and passed.

HON J.N. CALDWELL (Agricultural) [9.30 pm]: I move -

To insert in paragraph 1 a subparagraph (f) as follows -

- (f) whether instructions have been given for the drafting of the legislation and, if so, when and on what dates any drafts were presented to the Government.

Amendment put and passed.

Motion, as amended, put and passed.

CREDIT UNIONS AMENDMENT BILL

Second Reading

Debate resumed from 14 November.

HON MAX EVANS (North Metropolitan) [9.31 pm]: The Opposition fully supports this legislation. To summarise, I will quote briefly from the second reading speech of the Attorney General, as follows -

This Bill creates an additional tier of supervision for credit unions incorporated in this State as well as establishing a credit union industry sourced fund to protect the withdrawable share in investments and deposits of credit union members. The scheme is being established with the support of the credit union industry in Western Australia.

At the time of the Premiers' Conference comments were made about some degree of centralism or some national uniformity of credit unions and building societies in this country. I understand the purpose of that is to try to get some common legislation in all the States for credit unions with respect to their solvency ratios or prudential standards as to their total assets. I am led to believe that the legislation this Government put through in 1988 stipulating five per cent is the best prudential standard in the country - some of the other States still have only three per cent. That was a good move on the part of this Government.

However, the Government wants to bring in standard legislation and control so that all credit unions and building societies throughout the country are managed uniformly. This legislation is also to bring about a greater degree of uniformity than existed before, and I will explain more about that in a minute. I will quote again from the Attorney General's second reading speech, as follows -

Credit Unions Savings Protection Board Limited, a company limited by guarantee and incorporated under the Companies (Western Australia) Code, will administer the credit unions' savings protection fund. The board is empowered under this Bill to create the fund from compulsory contributions, levies, and loans from credit unions. The board is required to maintain a minimum of \$4 million in the fund or such other amount approved by the Minister and published in the *Gazette*.

The fund and its earnings will provide the financial resources for the operations of the board.

This legislation is very similar to the Acts Amendment (Building Societies and Credit Unions) Bill that was introduced in 1987. The Opposition moved a number of amendments to that legislation to set up a reserve board, or a credit fund, which the Attorney General's second reading speech talks about. The Opposition was not successful at that time, yet three years later the Government is setting up this fund.

If a fund of \$4 million - and I do not have the exact figures with me - had been set up at that time as a reserve fund, it would have accumulated interest compoundly over three years and we would have a fund of about \$5.5 million available now to help credit unions. I quote again from the Attorney General's second reading speech -

The main focus of the board's operations will be on surveillance for early detection of potential problems and where necessary a hands-on involvement to initiate corrective measures. Additional, ministerially-approved powers are provided to cover any occasion when more substantive intervention is warranted.

For the sake of history I will refer to 22 October 1987, when I brought in my series of amendments on behalf of the Credit Union Association of Western Australia and the Australian Federation of Credit Unions. We were then trying to bring the Western Australian credit unions into uniformity with those in New South Wales and Victoria with a fund set up to protect depositors. On 22 October 1987 the Attorney General, with a big smile on his face and a gun in his pocket to shoot me down, referred to a telex received on 19 October by the Premier from the Fremantle Credit Union. I will not quote the telex now,

but it supported the Government's legislation and did not support the amendments recommended by the Credit Union Association.

The Attorney General then went on to say, with a bigger smile on his face, that the Fremantle Credit Union and the United Credit Union comprised 50 per cent of the total funds on deposit with credit unions in this State after the loss of the Teachers Credit Society, and therefore they were very important credit unions. I quote the Attorney General saying at that time -

A letter dated 22 October 1987 over the signature of Mr E. Turner, General Manager of the United Credit Union Limited, was addressed to Mr J. Metaxas, Registrar, Registry of Co-operative and Financial Institutions, and read as follows -

On behalf of United Credit Union I wish to indicate our support for the thrust of the Government's legislative changes particularly in those areas of prudential requirements and capitalisation. You have asked for our comment on a number of aspects and it is our opinion that:

Several points were made, but I will quote point 4, as follows -

4. Reserve Fund - the industry in Western Australia has conceptionally agreed that a deposit protection scheme is required but it has not endorsed proposals for a Reserve Board stock. A paper has been circulated to Credit Unions by our State Association but the industry's view point is not definite at this time. It is our opinion that Credit Union members require protection but this aspect required further consultation with our industry and the Registrar of Credit Unions.

That was the point they were making: They did not want this fund at that stage. It just happens, as I mentioned at that time, that they were two of the credit unions that had been absolved from standing by the prudential standards of the Registrar of Co-operative and Financial Institutions. Fremantle Credit Union has since been absorbed by United Credit, and Mr E. Turner has now been replaced and United Credit has been put on a better and stronger financial basis. They were the people used by the Government to destroy the recommendation I was putting forward in 1987 on behalf of the Credit Union Association and the Australian Federation of Credit Unions to set up a fund that is now being set up by the legislation before the House.

However, that is history and I recognise the comments of the Credit Union Association that it has now been closely consulted by the Government over many months - I think probably for far too long, but at least the legislation is here. That is why I said yesterday that I was prepared to debate the legislation immediately, even though it came into the House only last Wednesday.

I will quote from the letter sent by the Credit Union Association of Western Australia. The reason I am doing this rather than debating the amendments point by point with the Attorney General is that I have been through a number of the amendments on the Notice Paper in consultation with the Government and the association. Mr Brian Paterson, the Chief Executive Officer of the Credit Union Association, discussed the amendments with me. It is quite interesting that the legal adviser is the same man who came over in 1987 when we tried to put through other legislation. I will quote from Mr Paterson's letter as follows -

We were fortunate to be provided with a copy of the bill last week (following the Second Reading Speech) by your colleague, George Cash. The fact that we had the bill at that time enabled the proposed amendments to the Act to be thoroughly reviewed and for some further amendments to be proposed to the Government.

My only comment to the Attorney General is that so often he does a good job in consulting with other parties to learn what they want in legislation, but the Minister's advisers and experts fall short by not going back to industry people with the final legislation and asking them if the legislation is really what they meant to see drafted rather than having misunderstandings between the experts and the parliamentary draftspersons. There would be fewer amendments in this House if legislation went back to the other parties. It could be kept confidential, and all the problems could be worked out quite quickly on a word processor. It should not be necessary to put in amendments within one week of the Bill's being tabled in our House. Mr Paterson continues -

We have today been advised by the Registrar of Co-operative and Financial Institutions that the Government has in fact agreed to pursue the majority of those further amendments that were proposed, and we are satisfied that the matters of concern raised by us have now been addressed. Enclosed with this letter is a schedule of those further amendments to which we have agreed.

The Government has afforded the credit union industry substantial consultation at every stage in the drafting of the bill and prior to its introduction to Parliament. As a result we are satisfied that the bill (with the further amendments as proposed) reflects the critical elements of the industry's original proposal for a Savings Protection Fund which was put forward in August 1988. We would point out that the bill also reflects the amendments to the Credit Unions Act as proposed in Parliament by you during 1987.

In view of this, we seek the co-operation of the Opposition to allow the bill to pass through the House without delay.

The Opposition supports this legislation and the amendments proposed by the Attorney General. We believe that the sooner it gets operational the sooner it will improve the administration and management of credit unions in this State.

HON J.N. CALDWELL (Agricultural) [9.45 pm]: Hon Max Evans has already outlined the Liberal Party's support for the Credit Unions Amendment Bill. I add the support of the National Party. The purpose of this Bill is to create an additional tier of supervision of credit unions. The Bill allows for the Credit Union Savings Protection Board Ltd - a company limited by guarantee - to administer the credit union savings protection fund. The fund will be created by compulsory contributions, levies and loans from the credit union. It will be administered by the board, which will be required to keep a minimum of \$4 million in the fund. Would the Attorney General advise the House how that figure was arrived at?

The board will monitor the operations of individual credit unions by checking statistical returns, carrying out on-site inspections of operations and having access to account books. The board can correct or penalise any impropriety. That is an important function of this board because any credit union that is handling other people's funds must be under the strictest of scrutiny, as has been demonstrated recently with many credit union failures. In some cases people's funds are not adequately looked after. The board will provide financial assistance through grants or loans, and will provide human resources and technical assistance in support of credit union management. It will set the rules relating to prudential practices to be carried out by credit unions.

The National Party has no problems with this Bill. It supports the Bill.

HON J.M. BERINSON (North Metropolitan - Attorney General) [9.48 pm]: I thank Hon Max Evans and Hon John Caldwell for their support of this Bill. It is also helpful that we should have an indication in advance of their acceptance of the amendments which have been circulated. As has already been indicated, these amendments have been drafted on the basis of requests by the industry. Knowing that they are acceptable on all sides will expedite the further processing of this Bill.

Hon John Caldwell slipped into one of his old habits of asking me questions I cannot answer. I refer to his request for some elaboration of the reasons for the figure of \$4 million as a target. I can only say that this is based on the advice of the industry itself.

Hon Max Evans: I can inform the House in a short while.

Hon J.M. BERINSON: If he wishes any further elaboration on this, I will be happy to obtain some departmental advice, or preferably invite him to take the advice of Hon Max Evans on the Short Title.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon MAX EVANS: The figure of \$4 million is a 1.25 per cent levy on the total assets of all credit union funds. That means there is approximately \$350 million in all credit unions in Western Australia. The figure is not struck at 1.25 per cent; the Government can change it to 1.5 per cent or two per cent. The prudential standard in the old legislation was 2.5 per cent. In other words, if an organisation had \$10 million worth of assets it needed to have \$200 million of capital, but the Government lifted it to five per cent; that is, \$5 million capital and \$100 million worth of assets. The average for the industry is roughly eight per cent of capital to total funds, which puts the industry in a better position than it was some years ago.

Clause put and passed.

Clauses 2 to 10 put and passed.

Clause 11: Part VIIIA inserted -

Hon J.M. BERINSON: I move -

Page 5, line 13 - To delete 5A(2). and substitute the following -
5A(2);

This amendment is moved at the request of industry and reflects its concern to have a definition of the term "prudential matters", which appears throughout Part VIIIA of the Act.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 5, after line 13 - To insert the following definition -

"prudential matters" means any administrative or financial matter in relation to -

- (a) the maintenance by a credit union of a sound financial position;
- (b) the promotion by a credit union of stability amongst credit unions; and
- (c) the conduct by a credit union of its affairs with integrity, prudence and professional skill.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 6, line 7 - To delete "The" and substitute the following -

For the purposes of this Part the

This again is proposed at the request of the industry to make it clear that the fund is vested in the protection board.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 8, after line 14 - To insert the following subsection -

- (5) Any amounts paid to the fund by a credit union by way of contribution under subsection (1) shall in the accounts of the credit union, subject to section 85(5), be treated as deferred assets of the credit union.

This amendment is proposed to avoid disputes with auditors as to how the contributions to the fund are to be treated in credit union balance sheets. Directors will have to ensure the asset is recorded in the books of the credit union at a written down value when some of the contributions to the fund have been dispensed by the board.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 10, lines 29 and 30 - To delete "in accordance with section 60" and substitute the following -

in any investment which would constitute liquid funds for the purposes of section 60(2)(a)

This again is at the request of the industry to ensure that the Bill achieves the intended purpose. There was some doubt as to whether the original terminology did that.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 11, line 8 - To insert after "Fund" the following -

or the carrying out by the Protection Board of its functions under this Part or under its memorandum and articles of association

This is to ensure that payments can be made out of the fund for expenses incurred in administering the fund as well as for expenses incurred by the board in carrying out its duties and functions under the Act for its memorandum and articles of association.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 13, lines 9 to 16 - To delete the proposed subsection (10) and substitute the following subsection -

(10) Where a credit union -

- (a) is being wound up;
- (b) becomes registered as a financial society; or
- (c) amalgamates with, or transfers its engagements to, an institution other than a credit union,

the Protection Board shall -

- (d) on demand of the liquidator; or
- (e) on production of the appropriate certificate under Part IV or Part XIIA,

pay to the liquidator or the institution which appears to the Protection Board from the certificate referred to in paragraph (e) entitled thereto -

- (f) except as provided in paragraph (g), the whole of the amount the credit union has on deposit with the Fund under section 104G; or
- (g) where the last balance sheet of the Fund discloses a loss or deficiency in the Fund, the whole of the amount referred in paragraph (f) less an amount that bears to the amount of the loss or deficiency the same proportion as the amount referred to in paragraph (f) bears to the total amount paid by all credit unions under section 104G as shown in that balance sheet.

This is to provide some precision in setting out the preconditions which trigger the obligation upon the board to pay moneys out of the fund. If the fund has a loss or deficiency any credit union seeking to withdraw its contribution would have deducted from its contribution a pro rata portion of the loss or deficiency.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 20, line 14 - To delete "practices" and substitute the following -
matters

This is to remain consistent with the use of the term "prudential matters", as defined.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 21, line 14 - To delete "accrued thereon" and substitute the following -

from the date of demand for such costs at a rate to be determined by the Protection Board

This is to ensure that the board has the power to determine the rate of interest and that the interest accrues from the date of demand for payment of costs.

Amendment put and passed.

Clause, as amended, put and passed.

Title -

Hon MAX EVANS: I compliment Mr David, the legal adviser to the Australian Federation of Credit Unions, because this Bill came before the House last week and was given to the Credit Unions Association of Western Australia, which referred it to Sydney where he drafted all these amendments. The amendments were then given to the Government to be incorporated today, so I compliment him for the speed with which the amendments were handled. The amendments are worthwhile and improve the legislation. I commend the credit unions and the Government for working quickly to bring this together.

Title put and passed.

All Stages - Leave to Proceed

On motion by Hon J.M. Berinson (Attorney General), resolved -

That leave be granted to proceed through the remaining stages of the Bill forthwith.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Attorney General), and transmitted to the Assembly.

WADC LIQUIDATION BILL

Assembly's Message

Message from Assembly notifying that it had disagreed to the amendments made by the Council now considered.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair, Hon J.M. Berinson (Leader of the House) in charge of the Bill.

The Assembly's reason for disagreeing to the Council's amendments was as follows -

The changes made in the Legislative Council have resulted in discrepancies in the Bill which as proposed to be amended would not repeal the Western Australian Development Corporation Act 1983.

Hon J.M. BERINSON: I move -

That the amendments made by the Council be not insisted on.

The reasons advanced by the Legislative Assembly for disagreeing are self-evident. They were advanced during the course of the original debate in this place and do not need to be repeated. I do no more than urge members of the House to accept the view of the Assembly so that the repeal of the Western Australian Development Corporation Act can proceed.

Hon MAX EVANS: I hope I made it clear at the time the legislation came into this place before, as I made it clear to the Minister for Finance and Economic Development, that it does not matter to the Government whether the liquidation Bill is passed as without it the Government can still liquidate the Western Australian Development Corporation. The Government could wind it up as necessary in the time required. The Government on that earlier occasion would not accept our recommendations that an independent liquidator be appointed and insisted that the liquidation be done by two Treasury officials beholden to the Treasurer or Minister for Finance and Economic Development.

As I said at the time, I must accept that because the Western Australian Development Corporation is a solvent body and under the Companies Code of Western Australia a solvent body can prepare a declaration of solvency it is quite in order for the directors to act as liquidators and distribute the assets and pay off the liabilities. Therefore, there was no reason

that two Treasury officials could not remain as directors of the WADC because as at 30 June last year the original directors resigned and I think five Treasury officials were made directors because the corporation was required to have not less than five directors. Of those five directors, two can act in the capacity of a liquidator selling the assets, negotiating with people and paying off liabilities.

There are a few problems to sort out, such as Hillarys Underwater World, the Port Kennedy project and Underwater World in Singapore. We held Treasury and the Minister for Finance and Economic Development to their word that the WADC Liquidation Bill was not required to liquidate WA Development Corporation. We amended the WADC Liquidation Bill to the extent that the Western Australian Development Corporation Act of 1983 would not be repealed. We had good reasons for doing that.

It should be evident, with a Royal Commission coming up to inquire into the business activities of Western Australian Development Corporation, Exim and other companies, why this was done. If the Western Australian Development Corporation Act were repealed, legal eagles could say, "You cannot ask any more questions. You cannot look into that. It does not exist. It is like a dead body; when it is cremated you cannot do anything more with it. You cannot see it. It is gone." Repealing an Act of Parliament is like cremating a body. It is gone. We did not want this body to be placed in that position because we would not be able to get questions answered or information tabled.

However, now there is to be a Royal Commission and for that reason we are happy to go ahead with the WADC Liquidation Bill; but not to repeal the Western Australian Development Corporation Act, which should remain intact. For that reason we insist that the amendments go ahead.

Question put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I cast my vote with the Ayes.

Division resulted as follows -

Ayes (12)

Hon J.M. Berinson
Hon J.M. Brown
Hon John Halden
Hon Kay Hallahan
Hon Tom Helm

Hon B.L. Jones
Hon Garry Kelly
Hon Sam Piantadosi
Hon Tom Stephens
Hon Bob Thomas

Hon Doug Wenn
Hon Fred McKenzie
(Teller)

Noes (13)

Hon J.N. Caldwell
Hon George Cash
Hon E.J. Charlton
Hon Reg Davies
Hon Max Evans

Hon Peter Foss
Hon P.H. Lockyer
Hon N.F. Moore
Hon P.G. Pental
Hon R.G. Pike

Hon Derrick Tomlinson
Hon D.J. Wordsworth
Hon Margaret McAleer
(Teller)

Pairs

Hon Graham Edwards
Hon T.G. Butler
Hon Cheryl Davenport
Hon Mark Nevill

Hon Muriel Patterson
Hon Barry House
Hon W.N. Stretch
Hon Murray Montgomery

Question thus negatived; the Council's amendments insisted on.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

STATE SUPPLY COMMISSION BILL*Committee*

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

Proposed clause 8: Membership of Commission -

Hon KAY HALLAHAN: For the information of members, Hon Bob Pike and I have had very lengthy and very constructive deliberations. In the interests of keeping the Committee informed during the process of putting the amendments forward, we have been doing our utmost to simplify them. That has caused a considerable amount of retyping. We want to consult again, and we want to consult with the Clerk. I therefore suggest that the Committee report progress and seek leave to sit again.

Progress

Progress reported and leave given to sit again, on motion by Hon Kay Hallahan (Minister for Planning).

WORKERS' COMPENSATION AND ASSISTANCE AMENDMENT BILL*Second Reading*

Debate resumed from 5 July.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [10.18 pm]: This Bill is designed to amend the Workers' Compensation and Assistance Act of 1981, and for related purposes. Before discussing the provisions of the Bill I draw to the attention of members a recent article published in the *Australian Journal of Social Issues*, Volume 25, No 2, of May 1990, under the heading "The Workers' Compensation System in Victoria: Who Takes the Blame?" by William Glaser and Kathy Laster. I introduce my comments with a somewhat historic note. The first paragraph of this issue deals with the problems of Workcare, the insurance disaster that the Victorian Government has had on its hands for some years. The article begins -

It was not until the late 19th century that workers started to receive some form of compensation for death and suffering caused by the effects of industrial diseases and injuries. Until that time, even the most negligent of employers could rely on various legal defences to avoid liability for the health problems of employees. Early legislation, however, merely gave a restricted class of workers limited rights to sue their employers in the courts; many decades of hard political negotiation and compromise were to elapse before the introduction of universal 'no fault' compensation schemes covering most workers for most conditions relating to their working environment.

In fact, workers' compensation for the work force is, in historical terms, of somewhat recent origin.

The long title of the Workers' Compensation and Assistance Act reads -

An Act to amend and consolidate the law relating to compensation for and the rehabilitation of workers suffering disability by accident or disease in the course of their employment, to establish a Workers' Assistance Commission, to continue the Workers' Compensation Board, and for related purposes.

Section 3 of the principal Act under "Purposes" reads -

The purposes of this Act are -

- (a) to make provision for the compensation of -
 - (i) workers who suffer a disability; and
 - (ii) certain dependants of those workers where the death of the worker results from such a disability;
- (b) to promote the rehabilitation of those workers with a view to restoring them to the fullest capacity for gainful employment of which they are capable; and

- (c) to promote safety measure in and in respect of employment aimed at preventing or minimizing occurrences of disabilities.

They are the general principles behind the Workers' Compensation and Assistance Act and indeed just an historical note of when workers' compensation was generally introduced into the Australian working scene.

In this Bill the principles underpinning the proposed amendments are generally to reform the existing legislation with a view to reducing the suffering of injured workers, the cost of workers' compensation premiums and associated oncosts to employers. A review was conducted over an extended time. In particular, the views of the Tripartite Labour Consultative Council, which comprises members of the Government, the Trades and Labor Council, and the Confederation of WA Industry, were sought and considered along with 25 responses to the discussion paper which had been previously circulated to interested parties.

One of the most important questions when we are dealing with any Bill is whether the proposed amendments represent change for change's sake, or whether the amendments are designed to have a positive impact on the system - in this case, on the workers' compensation system - both socially and economically. It is said that the cost of workers' compensation premiums to employers in Western Australia at the moment is in the order of \$323 million per annum. It is fair to say that employers generally rank workers' compensation premiums as the third most significant oncost that they are required to pay out, after payroll tax and superannuation.

As a matter of interest, I note that an Australian Bureau of Statistics' publication referred to the effect of other labour costs by way of type in the States and Territories - that is, the ratio of other labour costs to earnings per cent. The following figures were current in 1988-89: In New South Wales the figure was 2.5 per cent; in Victoria, 2.6 per cent; in Queensland, 1.6 per cent; in South Australia, 3.4 per cent; in Western Australia, 2.9 per cent; in Tasmania, 1.9 per cent; in the Northern Territory, 2.3 per cent; in the ACT, 2.7 per cent, indicating an Australian average of 2.5 per cent.

The anticipated adjusted figures for 1989-90 relating to the major States were: New South Wales, 2.3 per cent; Victoria, 3.5 per cent - a significant increase of almost 50 per cent which related to a blow-out in the Workcare compensation program; South Australia, four per cent; and Western Australia, three per cent. Those figures are significant and worth recording because they show an upward trend in workers' compensation premiums across Australia. For those members interested in the significant variations between the States and the Territories, the figures are related to the types of compensation available according to the relative legislation.

I have already mentioned the disastrous Victorian experience, known as Workcare. In due course I will relate more to that. Suffice it to say that at the moment in Victoria the latest figure for the unfunded liabilities incurred as a result of Workcare is estimated at \$5 billion. I am sure members would be astounded to hear of the unfunded liability that Victoria is attempting to overcome. It is important that we should always bear in mind the likely blowouts that can occur in workers' compensation payments if amendments are of a type that invite certain persons to make claims which would not normally be sustained.

My point is that workers' compensation premiums constitute a significant oncost to employers, and any positive reforms to contain premiums - indeed to reduce them - without necessarily reducing the services available to injured persons would obviously be welcomed by this side of the House. Any other constructive amendments that would make the workers' compensation system in Western Australia more effective and efficient in the areas of management and rehabilitation practices would also be welcomed by this side of the House and by the industry.

Talking about the need to analyse any amendments to determine whether they represent change for change's sake, or indeed are positive changes to both the social and economic situations, it is important to be very sure that the amendments are not window dressing. Most members would agree that times are particularly difficult in the real business world at the moment. Times are tough for the industry and the employers. Our responsibility in this House is to demonstrate the economic and social benefits inherent in any proposed changes that this House considers from time to time.

This leads me to the question of an impact statement. I have said before in this House, and when I was a member of another place, that the Government has an obligation to bring in an economic impact statement and a social impact statement when it introduces legislation. In that case the House would be under an obligation to understand the economic and social effects of the legislation should it be passed. For instance, when amendments are proposed to various mining Acts, clear benefits are seen by some persons, and clear negatives are seen by others. The allowing of commercial access to national parks, for instance, can create benefits for some, and some others would argue that it creates a negative situation. When we are dealing with legislation which amends mining or environmental laws, an impact statement is needed to determine the cost of those changes. Federally, the Kakadu National Park contains mineral leases which are excised, such as the Ranger uranium deposits, and clear economic reasons exist for these ventures; I have no trouble accepting that kind of proposition.

Members would be aware that in discussions on this Bill with various groups, the tripartite council identified a number of areas of concern regarding the current legislative process. This applied to the system of workers' compensation and assistance in Western Australia. Five major areas of concern were identified: First, the lack of reliable data on operations and performance of the existing system; second, the predominant emphasis on the payment of compensation rather than returning the injured worker to gainful employment; third, the barrier for more active participation for employers in their insurance cover and claims management; fourth, the prolonged delays in the resolution of disputed claims; and fifth, a lack of incentive for all parties to minimise the number and duration of the claims. Having identified those major areas of concern, the tripartite council made certain recommendations regarding the need to review the legislation. This related to the general conditions nominated in the area of claims and dispute procedures; the second area was that of information regarding the quality of data available; the third point related to rehabilitation; the fourth point was that of the system of control and management; and the fifth point was that of a system of ongoing review to monitor the effect of any changes.

A close examination of the Bill before the House reveals that the major proposals it contains can generally be arranged under the headings I just listed. The first of these was the claims and disputes procedures, and the Bill provides that employers shall be required to send a claim to the insurer within three working days after the employee has given the employer notice of injury. Also, it provides that the insurer shall either accept or reject the claim within 14 days. If the claim is rejected, or more time is needed to consider the claim, the insurer must notify the Workers' Compensation Board. Also, under the first point raised by the tripartite council the Bill provides the machinery to confer the title of commissioners on non-legal members of the board, and for them to hear arguments regarding rehabilitation and health and travel expenses.

It has been said by the Government that having a designation of non-legal persons as commissioners would expedite the disputes settling process. However, the Opposition believes that this proposal may aggravate the present situation and lead to further litigation rather than expediting the process. I flag that point at this stage of the debate as an area of potential dispute between the Government and the Opposition. The Opposition has a preference for the provision in the legislation regarding the commissioners to be withdrawn by the Government to enable further discussion between the Government, the Opposition and other interested parties. The positive suggestion I offer has already been advised to the Minister for Productivity and Labour Relations on a number of occasions, but, unfortunately, he has declined to enter into those discussions.

The next point recommended by the tripartite council for review involved the matter of information. The Opposition supports the need for a comprehensive data bank on the operations of the workers' compensation system. I was interested to learn that five per cent of workers' compensation claims represented 60 per cent of the cost of meeting all claims. If five per cent of claims are costing 60 per cent of the total premium, it is clear that a more reliable information system would assist in monitoring claims. This should encourage people to return to the work force as soon as possible.

The other recommendation by the tripartite council involves rehabilitation. This Bill will broaden the options available to injured persons in reducing the expense and human suffering of workers' compensation injuries. The Government claims that the Bill will provide a

system which will require an estimate of the time to be taken off work, and that is an important matter which deserves support. The Bill provides that if more than four weeks is to be taken off work, urgent consideration is to be given to rehabilitation to ensure that the injured person is not left in limbo and forgotten. Members would probably be aware that under the existing legislation it is not until one is off work for a period of 12 weeks that it is necessary to take action regarding rehabilitation. For those who have studied the effects on a person who is required to take long periods off work as a result of an injury, it would be known just how difficult it is for those persons to return to work.

Hon Sam Piantadosi: Not many employers, and others, want them back in the work force.

Hon GEORGE CASH: I agree with the member. It is not difficult only in the psychological sense; often they also suffer other disadvantages in that the employers may question the employee's employability.

One of the important principles that underlies this Bill is the need to try to alleviate some of the human suffering. I made the point earlier that where we can support economic savings to employers and reduce human suffering, we should be keen to support it.

It is also intended under the Bill to widen the scope of vocational rehabilitation and the payment for such services. However, there will be a restriction to a maximum of seven per cent of the prescribed amount which, in real terms, will be in the order of \$5 600 for each injured person. In respect of vocational rehabilitation, I suggest that, given the very broad options that are proposed in this Bill, there will be a need to monitor that area closely. Again I cite the Victorian disaster of Workcare where, quite clearly, proper monitoring systems were not put in place and as a result of both that and the way the legislation was written, which encouraged persons to make claims on Victorian Workcare, the Government found itself with \$5 billion of unfunded liabilities.

One of the other areas under the headings that I previously suggested was a review of system control and administration. The Bill proposes to enlarge the commission by the addition of one person from the Trades and Labor Council and one person from the Confederation of Western Australian Industry. Again, this is an area of disagreement between the Opposition and the Government. I regret that the Minister, Hon Gavan Troy, was not prepared to negotiate on this matter. I will say more at a later stage about Hon Gavan Troy's position on some of the amendments that we proposed.

It is further proposed in the Bill to appoint a medical practitioner from either the private or public sector. The Opposition is prepared to support that. Members will be aware that the current wording in the Workers' Compensation and Assistance Act requires that the medical practitioner who is a member of the commission be from the public sector. The Government's proposal is that he be from either the private or public sector and we support that.

In summarising the general provisions of the Bill, I recognise the need for efficient and effective workers' compensation for people in Western Australia. The Opposition believes a number of issues could have been negotiated reasonably. Hon Gavan Troy said that he would attend three meetings which were held in recent months to enable us to discuss certain amendments or negotiate aspects of the Bill. On two occasions he did not bother to turn up.

Hon Kay Hallahan: He had other legislation to deal with. We have been through this.

Hon GEORGE CASH: I want to place this on the record because, when representatives of the Trades and Labor Council and of the Confederation of Western Australian Industry read the debate, as I am sure they will because they will be interested in which direction this House moves on the Bill, I want them to understand that on two occasions Mr Troy did not turn up.

Hon Kay Hallahan: Because of other legislation with which he was dealing.

Hon GEORGE CASH: Even Hon Kay Hallahan, in doing the right thing and trying to protect her parliamentary colleague, will acknowledge that she knows that on one occasion he forgot. He came to this place and told me that he forgot.

Hon Kay Hallahan: I am unaware of that admission by the Minister. I know that you complained to me about his not attending some meetings, but he was handling other legislation.

The PRESIDENT: Order! The Minister will come to order. She is acting like somebody who is not on the front bench.

Hon GEORGE CASH: On two occasions the Minister did not turn up. On the third occasion, at a meeting which was conducted in the Labor Caucus room and which was attended by members of the Liberal Party, including Hon Derrick Tomlinson, Hon Peter Foss and me, by members of the National Party, including Hon Murray Montgomery and Hon Eric Charlton, and by members of the Government, including the Minister, Hon Sam Piantadosi and Hon Tom Butler -

Hon Kay Hallahan: And Hon Gavan Troy.

Hon Sam Piantadosi: Hon Tom Helm was there. You must not have been there, Mr Cash.

Hon GEORGE CASH: I was there. We were progressing fairly well with the amendments. I thought the constructive comments by members of the Liberal and National parties and by Government members were leading us to at least some resolution of the issues. Everything was going particularly well until the Minister turned up and decided he did not want to have a bar of anything and he would not support the amendments.

Hon Sam Piantadosi: That is not quite the case.

Hon Derrick Tomlinson: The people who advised him would not permit it.

Hon GEORGE CASH: Is that the case? On the Notice Paper will be listed a considerable number of amendments none of which would have been necessary if the Minister had used some commonsense and been prepared to negotiate these matters. In all fairness, Hon Sam Piantadosi and, I hope, Hon Kay Hallahan, will agree with me.

Hon Kay Hallahan: No.

Hon GEORGE CASH: It is a waste of this Parliament's time for us to have to move all of the amendments that will be listed on the Notice Paper.

Hon Sam Piantadosi: I certainly hope that commonsense prevails.

Hon GEORGE CASH: That commonsense does prevail on this side of the House.

Hon Sam Piantadosi: I look forward to witnessing it.

Hon GEORGE CASH: The member knows my position.

Hon Sam Piantadosi: And the Leader of the Opposition knows mine. That is why I said that I look forward to witnessing it.

Hon GEORGE CASH: The member is dead right in multicultural matters.

Hon Sam Piantadosi: This is a workers' compensation matter.

Hon GEORGE CASH: And in workers' compensation matters. The member knows the position that I take and he knows that I am genuinely disappointed that the Minister was prepared to give little or no consideration to the amendments that we proposed, which I believe would have allowed the majority of this Bill to proceed and those areas that could not be properly agreed to at this stage could have been reviewed at a later stage. At least the Bill would have progressed through this place and there would have been a common understanding of what we could or could not have agreed to. I therefore believe that Hon Gavan Troy treated the attempts by the Opposition to negotiate reasonable amendments to this Bill with contempt and I regret that.

I shall generally outline the Opposition's position. Firstly, the Opposition is concerned about and will discuss the areas of partial insurance, increases in the size of the commission, and increases in the number of people on the Workers' Compensation Board. We are totally opposed to non-legal advocates charging a fee and lay members becoming involved in judicial functions and making decisions on legal matters. The Opposition supports the reporting time constraints contained in the Bill, and the principle of rehabilitation, provided it is finite and is reasonably - but not rigidly - controlled. The Opposition certainly thinks there is a need for appeal rights for insurance companies where the insurance companies have some disagreement with respect to their registration. The Opposition supports the need for a limit on the allocation of funds in respect of vocational rehabilitation. I said earlier that the Bill provides that the limit at the moment should be seven per cent. The Opposition also

supports the introduction of medical advisory panels and the principle of an advisory committee. The Opposition strongly supports the reporting of rates and comparative claims after the rates for workers' compensation have been assessed. As I said earlier, the Opposition clearly supports a control system which will provide better quality information and general data collection, so that a database can be established to more efficiently manage the workers' compensation system in Western Australia. I said earlier that I was disappointed with the way in which the Minister in the other place had refused to conduct negotiations with respect to some of the amendments the Opposition proposed.

The Insurance Council of Australia Ltd has clearly taken an interest in this Bill. In fact, it has taken an interest in the legislation since it was part of the Government's working party in 1987. I will read to the House a letter received from the Insurance Council addressed to Hon Gavan Troy MLA, Minister for Productivity and Labour Relations, which deals with the Workers' Compensation and Assistance Act 1981, and the amending Bill of 1990. I shall read this letter to give some confirmation to the comments I made when expressing my disappointment at the manner in which negotiations were treated by the Government. More than that, the letter clearly sets out the areas on which the Opposition is prepared to negotiate. Through this letter the Insurance Council was imploring the Minister to take note of the negotiations and to continue to progress the Bill. The letter reads as follows -

Dear Minister,

It was of interest to meet with you at the Commission on October 25 last.

The proposed amendments have had the greatest airing of any legislation in recent Parliamentary history.

The Government Working Party, in December 1987, called for comment on a number of issues from all interested parties and because of the urgency required all submissions to be in place by January 6, 1988. Urgent work was necessary over the Christmas period.

Continuous work was done through 1988 only to see the 1988 Bill left at the Second Reading stage when Parliament was prorogued. In 1989 the saga continued and another Bill crawled its way through the Parliamentary process to be left on the Table when Parliament rose in December 1989.

The 1990 Bill appears to be heading in the same direction.

Contrary to your statement at the recent meeting of the Commission, the Insurance Council of Australia not being part of the Tripartite structure, produced a professional document each year dealing with those matters which it considered not practical in the good management of workers' compensation in Western Australia. Those documents were made available to the Commission and so to you in the first instance. They were then, each year, made available to the Liberal and National Party of Australia representatives.

All of the measures in the 1988, 1989 and 1990 Bills were not agreed by every member of the Commission despite the efforts of the Chairman to reach that position.

I have recently met with representatives of the Liberal Party and the National Party of Australia at Parliament House and I gave you notice of that intent.

As I understand it both parties have agreed -

To withdraw objections to the use of the word "vocational" in relation to rehabilitation.

To allow deletion of provisions for "partial insurance" until more work is done on the subject, particularly in respect of premium structures.

To the deletion of reporting disputed claims to the Registrar.

The future structure for setting medical etc. fees.

To leave the structure of the Commission as it is, at present.

Not to support the Amendment proposed in Bill Para. 36 in relation to Division 29 - Commissioners.

This attitude has been adopted because of the Government's announcement to conduct an independent review of the total operations of the Board/s.

On the completion of that review the Opposition Parties will again consider their position.

The Bill, in the main, has addressed areas of considerable importance and urgency for the admittance and management of claims made by employees disabled in the workplace. It would be a disaster if the Bill was again allowed to lay on the Table or lapse in 1990 for the sake of one item which may well be the better attended to following the pending enquiry which was recommended to you by the Workers' Compensation and Rehabilitation Commission.

Apart from the State Government Insurance Commission and Corporation, there are twenty one (21) private Approved Insurers under the Act and on their behalf I strongly urge the Government to allow all those matters which have been agreed, to pass through the Parliamentary process in the interests of the better administration of workers' compensation in the State of Western Australia.

Yours sincerely,

R.J. TRIGG

GROUP MANAGER - WESTERN ZONE (W.A. & N.T.)

It has been copied to me and also to the Executive Director of the Workers' Compensation and Rehabilitation Commission. I want that placed on the record because it clearly indicates a concern from an independent source, the Insurance Council of Australia, over the manner in which the Minister has refused to negotiate on this Bill. I again express my disappointment.

I also want to discuss at some length the Victorian Workcare system; that is, the system I have already alluded to, which has now totalled up unfunded liabilities of something like \$5 billion during its relatively short history.

The document to which I will refer is the "Management Review of the Victorian Accident Rehabilitation Council prepared by Flintefield Pty Ltd for the Joint Parliamentary Workcare Committee" in June 1988. That document includes a significant number of recommendations, which admittedly are directed towards workers' compensation in Victoria, but they should at least be placed on record in this debate because it seems to me that if we are not prepared to recognise the dangers of the Victorian situation, we may fall into the same pitfalls that have resulted in the huge cost blowouts in the Victorian system.

[Pursuant to Sessional Orders, debate adjourned.]

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [11.01 pm]: I move -
That the House do now adjourn.

Adjournment Debate - Westrail Trains - Performance Tribute

HON FRED MCKENZIE (East Metropolitan) [11.02 pm]: I want to bring to the attention of the House a matter of importance. I was advised today that for the last three weeks, the suburban trains operated by Westrail have run on time for 97.5 per cent of the time. I have been looking in the newspapers for the good news, but there does not appear to be any mention of it, and there are no journalists here tonight, so the best I can do is advise members.

The railway fleet is now getting on in years, and we are shortly to move into the era of electrification. That performance is a great tribute not only to the people who staff the trains but also to the people who repair and maintain those trains. I have had some involvement with the railway industry, and I hope Mr Pike will not be disappointed at what I have said about the trains. There is a great sense of pride among railway personnel, and they regard this as a great achievement. The House should take note of that achievement, which would

[Wednesday, 21 November 1990]

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probably be a Western Australian record, if not also an Australian and maybe even a world record.

Question put and passed.

House adjourned at 11.03 pm

QUESTIONS ON NOTICE

BUDGET - MISCELLANEOUS SERVICES, ITEM 42

Pensioners' Action Group - Payment Details

1056. Hon MAX EVANS to the Leader of the House representing the Minister for Finance and Economic Development:

Can the Minister advise details in respect of Miscellaneous Services, item 42, Pensioners' Action Group -

- (1) To whom is the money to be paid?
- (2) Is this the same person who received a similar amount in recent years?
- (3) What are the specific activities of this group?

Hon J.M. BERINSON replied:

The Minister for Finance and Economic Development has provided the following reply -

- (1) The funds are paid to the Pensioners' Action Group (Inc).
- (2) A \$20 000 grant was paid to the group in 1988-89.
- (3) The group is a voluntary non-profit body which represents and promotes the interests of pensioners in Western Australia.

FIRE BRIGADE - ROEBOURNE FIRE STATION

Future

1119. Hon N.F. MOORE to the Minister for Emergency Services:

- (1) Has a decision been made on the future of the Roebourne Fire Station?
- (2) If not, why not?
- (3) If so, when will the decision be made known publicly?

Hon GRAHAM EDWARDS replied:

- (1) No decision has been made at this time.
- (2) The Fire Brigades Board is still awaiting advice from the Roebourne Shire concerning what action the shire will take to ensure fire fighters are not exposed to unnecessary health risks; that is, asbestos fibres.
- (3) After the Fire Brigades Board has considered the advice received from the Roebourne Shire.

RAILWAYS - NORTHERN SUBURBS RAIL LINE

Bridge - Hodges Drive, Joondalup Drive

1140. Hon GEORGE CASH to the Minister for Police representing the Minister for Transport:

- (1) What is the estimated cost of providing a road bridge for the northern suburbs railway at the intersection of Hodges Drive and Joondalup Drive?
- (2) Will road traffic need to be diverted during the construction phase of the road bridge?
- (3) Are there alternative roads available?
- (4) If not, will alternatives have to be constructed?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) As design work for the Hodges Drive Joondalup Drive Bridge has reached the preliminary design stage only, a definitive estimated cost for this structure has not been developed.
- (2) Yes.

(3) No.

(4) Yes.

RAILWAYS - NORTHERN SUBURBS RAIL LINE

Bridge - Hodges Drive, Joondalup Drive

1142. Hon GEORGE CASH to the Minister for Police representing the Minister for Transport:

- (1) What is the estimated cost of providing a road bridge for the northern suburbs railway at the intersection of Joondalup Drive and Moore Drive?
- (2) Will road traffic need to be diverted during the construction phase of the road bridge?
- (3) Are there alternative roads available?
- (4) If not, will alternatives have to be constructed?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1)-(4)

The railway does not cross Joondalup Drive at Moore Drive (north) only at Moore Drive (south) which becomes Hodges Drive at that point. The reply to question 1140 is relevant in that regard.

POLICE STATIONS - GOSNELLS POLICE STATION

Manning Level - Reduction Proposal

1156. Hon DERRICK TOMLINSON to the Minister for Police:

- (1) Is there any serious proposal being considered by the Minister or officers of his department for reducing the level of manning of the Gosnells Police Station?
- (2) If the answer is yes, to what extent might the current levels be reduced and when will that reduction take place?

Hon GRAHAM EDWARDS replied:

(1)-(2)

Gosnells is located within the Armadale region which is at present restructuring the police service to the community. Some staff within the region have been relocated in order to introduce a directed patrolling system into the area. Whilst the number of police personnel has remained constant the introduced concept now projects a more pronounced police profile and provides an extended police service to the community.

BUSES - NEW BUS LANE, KWINANA FREEWAY

Usage

1158. Hon P.G. PENDAL to the Minister for Police representing the Minister for Transport:

- (1) How many buses use the new bus lane on the Kwinana Freeway on a daily basis?
- (2) What is the total number of passengers carried by these buses?
- (3) Can the Minister give a yardstick by which the success or otherwise of the bus lane is measured?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) During the morning peak period - 7.00 to 9.00 am - 95 buses use the bus lane northbound; 63 of those buses use the bus lane during a peak hour within the peak period. A similar flow occurs in the afternoon peak period - 4.00 to 6.00 pm - operation in the southbound direction.

- (2) During the morning peak period, about 5 000 passengers use the bus lane. About 3 400 of these passengers are carried during a peak hour within the peak period.
- (3) (a) Savings in up to 10 minutes of travel time northbound - am - and five minutes southbound - pm - have been achieved.
- (b) A consistent and reliable running time for buses between Applecross and Perth of five minutes has been achieved.
- (c) The ability to reschedule services and save a number of peak period buses and bus operators has been created, to be realised when the rescheduling is done at the opening of the bus junction.
- (d) An appropriate 40 per cent increase in passengers on peak period Kwinana Freeway bus services can be attributed to the increased incentive for passengers to use the unencumbered bus service.
- (e) The person throughput of the freeway during the peak hour has been increased by about 13 per cent.

MOTORCYCLES - DRIVERS' LICENCES
Power to Weight Ratio Legislation

1164. Hon GEORGE CASH to the Minister for Police:

- (1) Has the Government any intention of introducing motorcycle drivers' licences based on "power to weight" ratios rather than engine capacity?
- (2) If so, when will such changes to legislation be introduced?

Hon GRAHAM EDWARDS replied:

- (1) No.
- (2) Not applicable.

QUESTIONS WITHOUT NOTICE

PROROGATION OF PARLIAMENT BILL - DEFEAT

848. Hon N.F. MOORE to the Leader of the House:

I draw the attention of the Leader of the House to the fact that this afternoon in another place the Prorogation of Parliament Bill was defeated. Will he explain to this House why he and his colleagues in this place supported the Bill on two occasions, yet all Government members in the other place voted against it today?

Hon J.M. BERINSON replied:

We had some quite strong words yesterday about the right of each House to make up its own mind and this is probably yet another indication of that.

PROROGATION OF PARLIAMENT BILL - DEFEAT

849. Hon N.F. MOORE to the Leader of the House:

Does that mean that the Leader of the House still supports the Prorogation of Parliament Bill?

Hon J.M. BERINSON replied:

I support the Government's policy. The position having been reached where the Government has decided not to proceed with that Bill means that I, as always, support the Government's position.

JOONDALUP DEVELOPMENT CORPORATION - FUTURE

850. Hon GEORGE CASH to the Minister for Lands:

- (1) What is the future of the Joondalup Development Corporation?

- (2) Will the Joondalup Development Corporation Act need to be amended or repealed to enable the Government's intention to be put into effect?
- (3) If so, when is it likely to occur?

Hon KAY HALLAHAN replied:

(1)-(3)

The Joondalup Development Corporation will continue to operate under its current Act. At some point legislation to establish the Office of Land Services may be necessary, but that is being looked at now to ascertain what will be needed in the way of legislation. It may not be necessary, in which case the JDC could continue to operate under its current legislation.

The activities of the JDC will continue. It is a very important corporation and the work it has been doing has been quite outstanding. In fact, the Government regards it as a huge success story. It is a rare occasion in which a residential and commercial centre can be planned in the way the JDC has been planned and there has been close consultation with the City of Wanneroo.

Members might be interested to know that some concern has been expressed by members of the Chamber of Commerce and Industry and other people and, indeed, by the City of Wanneroo about the Government's undertakings with regard to the JDC. Funding is available for the activities of the corporation to continue and approximately \$26.5 million has been set aside in the Capital Works Fund. An amount of \$17.6 million has been set aside specifically for the development of the city centre, which is the next stage. Some people are concerned that the development might be hindered. I have told representatives of the City of Wanneroo and the Chamber of Commerce and Industry that so far it has been a successful project and the Government has nothing to gain by interrupting the dynamic progress that is already evident. I was seeking to reassure people about that because the only thing that will undermine the strength and vitality of Joondalup is negative talk and the talking down of investment confidence in that centre. There is no reason for people to do that.

The Joondalup Development Corporation will become part of the new Office of Land Services. The staff of the JDC will remain at Joondalup. The present General Manager of the JDC, Mr Michael Kerry, is drawing together the Office of Land Services and he has been instructed to ascertain whether it is possible to have the other units of that office located at Joondalup. The only unit I would not want at Joondalup is that involved with the East Perth development because it will need to be close to that development. In every way the Government has a very strong commitment to Joondalup and even though there will be administrative changes they will not in any way diminish that commitment or be detrimental to the ongoing development of that centre.

SMITH, MR ROBERT - GREENOUGH REGIONAL PRISON
Housing Accommodation

851. Hon TOM STEPHENS to the Minister for Corrective Services:

Will the Minister advise the House whether he has any up to date information about the manner in which Robert Smith was held in Greenough Regional Prison?

Hon J.M. BERINSON replied:

The position is that there is no basis for the suggestion implied in Hon Phillip Pandal's question yesterday concerning the nature of Mr Smith's imprisonment at the Greenough Regional Prison. I am advised that the prisoner was placed at the prison during the period 6 March 1990 to 3 April 1990. I am further advised that he was housed in A block, which is the main compound, and did not at any stage leave the prison.