Legislative Council

Tuesday, 5 May 1992

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

MOTION - STANDING COMMITTEE ON LEGISLATION

Acts Amendment (Sexual Offences) Bill and Acts Amendment (Evidence of Children and Others) Bill Report Tabling

On motion, by leave, by Hon Garry Kelly, resolved -

That the report of the Standing Committee on Legislation on the Acts Amendment (Sexual Offences) Bill 1991 and the Acts Amendment (Evidence of Children and Others) Bill 1991 do lie upon the Table and be printed.

[See paper No 126.]

MOTION - DEPUTY CHAIRMAN OF COMMITTEES

Jones, Hon Beryl, Appointment

On motion without notice by Hon J.M. Berinson (Leader of the House), resolved -

That Hon Beryl Jones be appointed Deputy Chairman of Committees to fill the vacancy caused by the appointment of Hon Garry Kelly to the position of Chairman of Committees.

MOTION - CONTRACTORS AND SUBCONTRACTORS

Industrial Relations Legislation Proposal - Senator Cook, Federal Government and Henderson, Hon Yvonne Condemnation

HON R.G. PIKE (North Metropolitan) [3.36 pm]: I move -

That this House condemns Senator Cook and the Keating Federal Labor Government for proposing to introduce legislation which will bring contractors within the scope and control of the centralised Australian Industrial Relations Commission because -

(1) The private enterprise subcontract system is the cornerstone of the housing industry in Western Australia. This move will eventually destroy the subcontracting system. At present, subcontractors and independent contractors are not included under any Federal or State Industrial Relations Act as employees, and they are therefore free from union direction and control. Safety and welfare requirements are already covered because subcontractors and independent contractors already come under the control of the State Occupational Health, Safety and Welfare Act.

(2) In this State we have one of the most efficient home building industries in the world. However, this record would be placed in jeopardy by the proposed legislation, as it would significantly raise the cost of homes in Western Australia. It is professionally estimated that the cost of providing residential housing could increase by up to 25 per cent if this move succeeds.

(3) The subcontract system, which will be severely hamstrung if not destroyed in this State under this proposal, presently provides the residential construction industry with the flexibility which enables it to respond to the extremely cyclical nature of house building.

(4) As a matter of principle and good government, there is always a necessity to maintain free and competitive enterprise. This proposal would remove healthy competition and efficiency.

(5) This proposal will see the existing unionisation of city building sites spread to suburban housing blocks, and as evidence of what we can expect, Western

> Australians need to be reminded that "no ticket, no start" notices still appear on major construction sites in Western Australia.

I seek leave to amend my motion by inserting after the word "Commission" in the first paragraph the following words -

> and Hon Yvonne Henderson and the Ministerial Council comprising Hons J.A.McGinty, I.F. Taylor, E.K. Hallahan, D.L. Smith, and G.I. Gallop for their Ministerial Council recommendation that-
>
> "Employers change their approach as follows -
>
> consideration of a move towards more of the workforce becoming employees rather than subcontractors, with genuine supplementary labour in order to honour all award and agreement obligations"

[Leave granted.]

Hon R.G. PIKE: I apologise to the House for the late notice of this amendment, but the information about the speech made by Hon Yvonne Henderson to the Construction Industry Reform Strategy at a promotional seminar in Perth on 23 April has only just come to hand. In speaking to the motion generally, I make the point that not only is Senator Cook moving in the Federal Parliament to gut the rights, privileges and prerogatives of subcontractors in the whole of Australia but also the Ministerial Council of the State Labor Government is moving to do exactly the same thing. The Opposition often finds silence from the Government benches or a "me too" relationship when it puts forward a motion condemning the Federal Parliamentary Labor Party and the Federal Government.

It is significant that in her speech on that occasion Minister Henderson said in a paper headed "The Perspective of the Western Australian Government", at page 4, that the State Government has established a Ministerial Council comprising the Ministers who have responsibility for areas impacted on by the reform process to coordinate the whole of Government approach to these reforms. The Ministerial Council consists of Hon Yvonne Henderson, who is joint chairperson with Hon Jim McGinty; Hon Jim McGinty, Minister for Housing; Hon I.F. Taylor, Minister for State Development; Hon B.K. Hallahan, Minister for Employment and Training; Hon D.L. Smith, Minister for Local Government; and Hon G.I. Gallop, Minister for Microeconomic Reform. The speech continued that the Ministerial Council is supported by an interdepartmental committee comprising the relevant departments falling under the responsibility of Ministers on the council. It states later that this structure will ensure that problems are dealt with at an early stage and that opportunities are acted upon.

The recommendations made by the Minister on that occasion commenced by pointing out that a range of issues require a changed approach by employers. There is no misunderstanding whatsoever that on that occasion a little over a week ago the Minister was telling employers the attitude of the State Government and the Ministerial Council in this area. These remarks come from a written copy of her speech. The words used by her are the very words used in the addendum to the motion; that is, that employers should consider a move towards more of the work force becoming employees rather than subcontractors, with genuine supplementary labour in order to honour all award and agreement obligations. At long last we have in written form a precise submission, not merely from one but from six Ministers of this Government, saying to the employers of Western Australia that the Ministerial Council stands for the elimination of subcontractors within the work force and for their being replaced by genuine supplementary labour in order to honour all award and agreement obligations. This is the quid pro quo, the screw being put upon the Labor Government by unions which in this State control 67 per cent of the votes of those who sit on the Labor selection committees that determine who shall be the endorsed Labor candidates both Federal and State.

Hon T.G. Butler interjected.

Hon R.G. PIKE: Hon Tom Butler interjects, "Hear, hear!"

Hon T.G. Butler: I did not say that. I said that you could not get that right.

Hon R.G. PIKE: I am sorry. Is the figure greater than 67 per cent, which is the latest figure I have from the library? Hon Tom Butler would know, with his background, that the figure is

more than 50 per cent. We all know that the unions say to the parliamentary Labor Party, "Jump", and the party asks, "How high?" We have seen that lately in the review of endorsements involving Hon Garry Kelly, and other machinations imposed by the left wing and unions; so I am sure that thinking members of the Labor Party will not deny the power or influence of the unions over them. However, it goes far beyond that.

Let us now look at what Peter Cook, the Federal Minister, has said. First, we had a speech by Yvonne Henderson telling employers in Western Australia - with the imprimatur of the Lawrence Government and six of its Ministers - that the Government stands for the elimination of subcontractors and their replacement with genuine supplementary labour in order to honour all award and agreement obligations.

I turn now to a dispute which occurred in mid April in the Eastern States and which related to a Federal award. An electrical contractor was working on a new construction and was asked to install an additional power point in a wall on which members of the plasterers union had completed their task and gone to another site. It took him two minutes to drill a hole through the plaster, push through the wiring and secure the switch. This crime of the century was immediately reported to a shop steward who immediately declared it a demarcation dispute as the hole had to be drilled by the plasterer and not by the electrician. They closed the job down and dozens of workers had to go home, in some cases from different and unconnected unions. Few workers were left on site as the job was a closed shop where union membership was a prerequisite to work.

Hon Tom Helm: Where was this dispute?

Hon R.G. PIKE: I am quoting from the *Sunday Times* of 19 April.

Hon Tom Helm interjected.

Hon R.G. PIKE: Hon Tom Helm can make his speech in a moment. I am sure he will not deny the facts related to demarcation disputes as he had a lot to do with them in the past. The fact of the matter is that the Federal Keating Labor Government was simultaneously jumping to the dictates of the union movement as well. A report which appears on page 9 of *The Australian* of 27 April refers to Mr Cook's efforts. We should all with some horror recall that on every major building site in every capital city of this great country of ours including Perth "No ticket, no start" signs still stand outside buildings. I am sure Labor Party members will say, "Too right," and, "Hip, hip, hooray," and will agree with that. If they do not support that approach let them say so now by way of interjection. Silence will be the response.

Several members interjected.

Hon R.G. PIKE: Are members opposite opposed to "No ticket, no start" signs?

Several members interjected.

The DEPUTY PRESIDENT (Hon Doug Wenn): Order!

Hon Mark Nevill: You are pathetic.

Hon R.G. PIKE: The honourable member says that it is pathetic.

Hon T.G. Butler: He says that you are pathetic.

The DEPUTY PRESIDENT: Order! I ask honourable members on my right to cease interjecting and the member on his feet to cease inviting interjections.

Hon R.G. PIKE: I am dealing with the fact that the no ticket no start approach shows absolutely categoric union domination of metropolitan building sites in this and every other capital city of the Commonwealth. No amount of gainsaying and dodging can alter that fact. We have seen Minister Henderson and five other State Cabinet Ministers proposing in writing to employers that that shall apply not only to city building sites but also to housing sites. It goes further to the heart of the agricultural and manufacturing community, and to every commercial enterprise in this State where we will have the de facto and de jure elimination of subcontractors by the imposition of union control effected federally by Mr Cook's proposed amendment to the Industrial Relations Act and in this State by the written submission of six Ministers of the Crown to employers saying, "This is what we want."

In order that members do not think this happens to be merely a view of mine, the Press item said that two days before the meeting of the National Labour Consultative Council, which also includes the ACTU, the Confederation of Australian Industry -

> convened a national forum of the big employer bodies, -

and I ask the House to note this -

> - including the Metal Trades Industry Association, the National Farmers Federation, the Australian Chamber of Manufactures, the Housing Industry Association and the Master Builders-Construction and Housing Association.

They decided to have a campaign against the legislation, arguing that it was a vehicle for union interference in already efficient operations and a fundamental restriction on individual rights and a total capitulation to the union movement. I understand also that the farming organisations existing throughout Australia are taking the same action.

The article went on to say, and I am paraphrasing, that the employers see a more widespread use of the new laws because of the way in which the Government is leading up to the move. Members should note this well: The use of contracts by employers to avoid awards has always been of concern to the union movement in Australia.

Hon T.G. Butler: Shouldn't it be?

Hon R.G. PIKE: Hon Tom Butler asks, "Shouldn't it be?" The answer is that unions and awards have a proper place within the community of this great country of ours. They have an improper place if they seek to impose their privileges, rights and prerogatives on contractors and subcontractors who are working for themselves. It is a manifest denial of the rights of the individuals who happen to be contractors and subcontractors, and Hon Tom Butler's interjection shows where he stands. I expect Hon Tom Butler to slavishly follow the dictates of Senator Peter Cook and the Ministerial Council, who are proposing in writing the elimination of contracting and subcontracting in this State. Indeed, if Hon Tom Butler did not interject to oppose my point of view I think his endorsement would be reviewed by the Labor Party, and if not by the party then by the union movement. I repeat this quote from the article -

> There was never any doubt about the Government's position, either. After the April decision by the Federal Court, Cook responded by saying "the law is an ass".

What was Senator Cook talking about?

> This background to the legislation is at the core of employer concerns. The highest courts in the land have upheld the rights of sub-contractors and labour hire agencies to work outside the award system.

That is what this proposal is all about. They are proposing to emasculate, to strangle, the subcontracting structure that exists within this great State of ours. The article goes on to make the point that the employer groups have estimated, for example, that there will be an increase of up to $25 000 on the cost of a $100 000 house should Cook's proposal be implemented. I say without apology that also there will be an increase in this State of the same amount, bearing in mind that we have the comment of the Minister for Productivity and Labour Relations, Hon Yvonne Henderson, in this regard.

I emphasise that, just as we see "No ticket, no start" signs on the major building sites in the metropolitan area of Perth, should Senator Cook be successful in his nefarious enterprise, and should Hon Yvonne Henderson be likewise successful in her nefarious enterprise on behalf of herself and five other Ministers of this Lawrence Government, we will see by stealth, should the Opposition not have noted the speech and their dreadful intent, the emasculation and destruction of the subcontracting and contracting system in this State.

The farming members of this House, and those members who represent farming communities and sit on the Labor side - Hon Kim Chance being a good example - should contemplate how they will face their constituents when they know that the State and Federal Labor Governments are proposing to get rid of subcontractors. The Labor Party may argue - indeed, Cook has commenced to argue, but not very strongly - that that is really not what it is all about. On the other hand, the major employer organisations throughout the Commonwealth and the farming organisations are arguing quite precisely that that is what it

is all about. So if the Labor Party intends to back-pedal and say, "We will not insist on the removal or the elimination of subcontractors", all it has to say in this debate, and all the Ministerial Council headed by Hon Yvonne Henderson has to say is, "We revise that and we no longer stand for the elimination of contractors and subcontractors in this State." I repeat that on page 4 of the speech made by Hon Yvonne Henderson on 23 April she says that a Ministerial Council has been established. She names the five Ministers involved and the document says categorically, without any misunderstanding, that the employers are to consider a move towards the work force becoming employees. Members should notice the words of Hon Yvonne Henderson -

> Consideration of a move towards more of the workforce becoming employees rather than subcontractors, -

What draconian, incredible words they are to impose upon the community of Western Australia. She goes on to say -

> - with genuine supplementary labour in order to honour all award and agreement obligations.

How many farmers in this community will say, "Hip, hip, hooray!" to this proposition from the Lawrence Government that we get rid of subcontractors and have genuine supplementary labour in order to honour all award and agreement obligations?

Hon E.J. Charlton: Who will employ them?

Hon R.G. PIKE: That is a good point; who will employ them and how much work will be done? This is change by stealth. This is what the Labor Party is always all about: Presenting a false, hypocritical facade to the community, much like Premier Lawrence - whom we now call the pseudo Joan of Arc. She says, "We are really on everybody's side", at the same time as making these recommendations in an insidious way. However, the Labor Party happens to have been caught out. It is a pity, and I think quite dramatic, that the community, except for one report which was properly recorded by *The West Australian*, is in ignorance of this submission, which I included in the motion today. It at least brings to the attention of the people of Western Australia that the Lawrence Labor Government stands for the elimination of subcontractors. I am quite sure that all the subcontract builders, brickies, concrete workers, grano workers and so on who have supported the Labor Party in the past on the basis that they are workers and therefore should vote Labor will be having very severe second thoughts when they find that this Government is promoting that they should all be unionised and that subcontractors will be eliminated. I ask the House to support the motion.

HON E.J. CHARLTON (Agricultural) [4.01 pm]: I have pleasure in seconding the motion, and it is of critical importance that members of this Chamber note it. I want to make one or two points in support of the motion in addition to what Hon Bob Pike said when moving it. People should recognise that if this Federal Government proposal were implemented, we would see not only the subsequent events mentioned by Hon Bob Pike, but also every employee who became part of the work force in lieu of being a subcontractor would immediately qualify for "pay as you earn" tax. Therefore, the Government would obtain an immediate return from this system to which most people would be subjected. Under the subcontractor system people still pay tax but it is not deducted immediately, never to be seen, as is the case with this system. The Federal Government, with the support of the State Government, is ensuring that we place extra people into the so-called full time work force under the guise that it is in everyone's interest, including the State's, to do so.

No-one currently employed within the subcontracting system will welcome that change. It amazes me that Australian PAYE taxpayers, who are ripped off under the current system, with the increased proportion of income taxed and increased indirect taxes, keep supporting the Government which consistently increases that burden. I am amazed also that at a time when the Federal Government has consistently been moving for deregulation in a whole range of areas - including many social issues - we have this move to regulate.

Only last week Hon Sam Piantadosi told us that we must do away with the "terrible Potato Marketing Authority" because, among other things, it was inefficient. This is despite a number of matters, which I shall list, the member's Government has pursued over recent times. At the same time as wanting to abolish some of the organised bodies which have been operating in an orderly system, the Government said, "We will have this deregulation across

the board." However, it also says that, "Although we have had deregulation in this industry for generations, it is to be regulated." It is acting contrary to the current trend.

The Government tends to portray its stance in this way: Australia will benefit from deregulation, but we will do the opposite with the people working within this system. However, the people who carry out the work are told, "We will regulate you and place you in a certain category; therefore, you will never see part of your pay packet." In that case, these people cannot work for anyone else. The bottom line is that this move will create fewer job opportunities.

Hon Tom Helm: Nonsense!

Hon E.J. CHARLTON: The member always says that.

Hon Tom Helm: Tell us how.

Hon E.J. CHARLTON: The member believes that people working as subcontractors for BHP or a home building company will be happy about automatically becoming part of a work force for a particular company, because that means -

Hon Tom Helm: Why is that?

Hon E.J. CHARLTON: That is what the member is saying.

Hon Tom Helm: Tell us how. You have not told us that.

Hon E.J. CHARLTON: I will disregard the words coming over my left shoulder.

Subcontractors who are currently working for a range of people - which may be a small group of employers - are working for their own, and the nation's, benefit. Therefore, I cannot understand why this Government - this is the major point - has portrayed its intentions as being all about deregulation and the user pays system. Whenever people want to drive down a highway or to engage in any business or social activity, the Government applies the user pays, deregulated system. However, when it comes to a matter which is central to the Australian Labor Party, the party says, "Jump", and the Government asks, "How high?"

Over recent weeks we saw the great furore which arose regarding the reduction in tariffs for the sugar industry. We currently have a proposal to do away with the total Government involvement in the wheat industry. The proposal deals with how the industry will be financed and operated. However, in the same breath the Government states that it will produce legislation which will force subcontractors to be employees. This will apply around the nation. It is one thing to have policies, principles and philosophies about how the nation and its people should operate, but it is totally inconsistent to act in this way. This leaves the Government without any credibility.

Hon Sam Piantadosi: You should be consistent.

Hon E.J. CHARLTON: It is a matter of a group of people doing what they want to do.

Hon Sam Piantadosi: It is totally inconsistent to support a regulated potato board.

Hon E.J. CHARLTON: That is right! That is what Hon Sam Piantadosi and his colleagues very successfully portrayed to the public of Australia recently. Irrespective of how unsuccessful the Federal Government has been in governing Australia, the Labor Party is very good at winning elections. The Opposition does not even come a close second. When I was in the city talking to someone from whom I was purchasing an item, that person made the same point. I do not know his politics, but he said that the Opposition probably would not win the next election because Carmen Lawrence has got it right.

Hon T.G. Butler: You told him your politics.

Hon E.J. CHARLTON: He happened to know my politics. The State debt is now $11 billion incurring $1 billion a year interest; every man, woman and child must pay for that. However, when a group of individuals representing an industry, whether it be the wheat industry, the home building industry or any other industry, want to organise themselves to contribute in a certain way - there is no better example of free enterprise - members of the Government continually refer to my politics and ask how I can substantiate, for example, the wheat industry having a closed shop whereby it can sell its wheat to other nations. The Government wants to break down free enterprise. It sells the suggestion to the people of Australia that they are paying too much for the end products simply because groups of

people take that point of view. It is all very well for the Australian Council of Trade Unions or any other union on the Terrace to espouse "no ticket no start", which, incidentally is against the law under the Industrial Relations Act.

Hon Sam Piantadosi: Who introduced the idea of "no ticket no start"?

Hon E.J. CHARLTON: Hon Sam Piantadosi can say what he likes; but that is the law. I pointed the matter out to the Attorney General and asked what he would do about it, because the legislation is in his name. However, he will do nothing about it. Some people do not want to accept my point when I ask the question: How can a Government say on the one hand that it will deregulate everything in the user pays system and at the same time that the subcontracting movement - the greatest example of free enterprise - will be regulated?

HON TOM HELM (Mining and Pastoral) [4.13 pm]: On the basis of this motion and from the detail given by the two previous speakers, one could be forgiven for thinking there may be some evidence in this motion to suggest -

Hon E.J. Charlton: Senator Cook has been reported on the ABC almost every day over the past fortnight.

Hon TOM HELM: Of course I listened to him. The House has been asked to condemn seven State Ministers and a Federal Minister for asking employers to consider that some members of the work force should become employees rather than subcontractors. A motion was moved by Hon Bob Pike and seconded by that pseudo Liberal Party member, Hon Eric Charlton, that the House should condemn a person for asking someone else to consider a matter. Those two doyens of free speech, those two representatives of the free speech party, one of whom believes in agrarian socialism and the other in out and out capitalism, would have us condemn a person for asking others to consider something. It is somehow abhorrent to the Opposition that Peter Cook asked some people to consider a matter. The Opposition members suggested that to consider the issue would destroy the parliamentary democracy to which we belong. That is the first ridiculous thing we are being asked to consider. Some of the motions moved by those members have been ridiculous, but this is the most ridiculous. In their diatribe they told us how wonderful is the private enterprise subcontract system. We were also given to believe that some subcontractors are not in trade unions. Nothing could be further from the truth. Many of them are members of trade unions.

Hon Eric Charlton and Hon Bob Pike should ask the Building Workers Industrial Union, the Construction, Mining and Energy Workers Union, or the metalworkers' union. Many of their members are described as contractors. Nonetheless, the motion would have us believe that suddenly the visitation of the unions would come on subcontractors; that the earth would open up and they would be showered with fire and brimstone; and that if the employers and the employer representatives were to consider the matter, the end of the world would be nigh. We have not been told that some subcontractors are quite strong and able union members; therefore no great change would take place. I am not referring only to those working on minesites or for Alcoa of Australia Ltd or other major companies; they work in many places. Simply because the word "union" is not stamped on their forehead does not mean they are not members of a union. This is a free country and one can belong to a union if one chooses; not that Hon Eric Charlton or Hon Bob Pike would agree with that. Perhaps they believe trade unionists should be stood against the wall and shot.

The fact that subcontractors are in the union movement - I do not hear anyone denying they are - may be one of the reasons we have one of the most efficient building industries in the world. Perhaps if more union members were in the building industry it would be even more efficient and effective.

Hon Derrick Tomlinson interjected.

Hon TOM HELM: Why not? In his diatribe Hon Bob Pike referred to a case described in a newspaper article where workers went on strike because an electrician undertook what was considered to be a plasterer's work. By way of interjection I asked in which State that occurred.

Hon R.G. Pike: It occurred in New South Wales.

Hon TOM HELM: Is that not interesting? As a matter of fact, under the Liberal Greiner Government, legislation proposed by Senator Cook is already in place. New South Wales is

probably a good example of why this motion should be thrown out. The House should not agree with this motion even if I cannot convince members that paragraphs (1) to (5) cannot be proved. That would be difficult because of some of the dunderheads in the Opposition. Fancy condemning people because someone else is asking them to consider something. That is crazy. I will go through the exercise to see whether I can open some of the closed minds on the Opposition benches. Subcontractors can be members of unions. Senator Cook's proposal will not make that any more difficult or easier. It will retain the status quo. He does not propose that they must become members of unions and there is no suggestion that "no ticket no start" notices will pop up like mushrooms around the place. That aspect of the legislation will not be changed. What it might do is give those people who work on building sites or those who are deemed to be employees for the purposes of the Act some coverage under the Occupational Health, Safety and Welfare Act. Hon Bob Pike's motion is full of flaws and misinformation. It could be deemed to be mischievous and vexatious. In the motion he says -

> . . . subcontractors and independent contractors already come under the control of the State Occupational Health, Safety and Welfare Act.

That cannot be because the Act is specific in describing employees, the self-employed and contractors. Hon Bob Pike said that the Act covers everybody. However, it covers them only if they are employees and, under the Act -

> "employee" means a person by whom work is done under a contract of employment or apprenticeship;

Not a contractor - a contract of employment. It continues -

> "self-employed person" means a person who works for gain or reward otherwise than under a contract of employment or apprenticeship, whether or not he employs any other person;

There are many definitions in the Act including -

> "workplace" means a place, whether or not in an aircraft, ship, vehicle, building, or other structure, where employees work or are likely to be in the course of their work.

Therefore, a contractor who does not have a contract of employment but who works for himself on a building site or any other site is not actually in a workplace because he is not an employee, he is a contractor. It is difficult for him to fall under the provisions of the Act. That is one misleading piece of information in Hon Bob Pike's motion and I have dealt only with the first paragraph.

Paragraph (2) of the motion states, in part -

> It is professionally estimated that the cost of providing residential housing could increase by up to 25 per cent if this move succeeds.

If it has been "professionally estimated", one would think that Hon Bob Pike would have told us who did the professional estimation, because it is an important part of the motion.

Hon R.G. Pike: The Master Builders Association.

Hon TOM HELM: The Master Builders Association is part of the tripartite body which is chaired by Hon Yvonne Henderson, the relevant Minister. That body has not debated this matter at all. In fact, there have been a number of requests from the Master Builders Association, the Housing Industry Association and other relevant groups which make up the tripartite body to give the customer the benefit of the 25 per cent because the evidence is that the cost will not increase by that much.

Hon R.G. Pike: Unionise and wait and see.

Hon TOM HELM: Okay. I will move on to the union issue and how the unions will descend upon the workplace and how hellfire and damnation will be visited upon us. We have not been given a description of what part of the Act is relevant to that happening and the motion does not inform us whether the unions are there already. However, let us say that some part of it is true and that building industry employees and contractors are doing so much work around the place for under award payments and with no consideration for the Occupational Health, Safety and Welfare Act. It should not be hard to determine by how much, if any, the

costs will go up. I suggest to the House that we would not be stupid enough to believe that the people who work in the industry and who do not belong to unions are incompetent or work for a substandard wage or in a substandard workplace under the provisions of the Occupational Health, Safety and Welfare Act. Senator Cook's proposal says that the commission will have no regard to a future wage situation.

Hon R.G. Pike: Do you support the Ministerial Council in its proposal to get rid of some contractors and replace them with unionised labour? That is a fair question.

The PRESIDENT: Order!

Hon R.G. Pike: I have said in writing that that is what the Minister said. Do you support it?

The PRESIDENT: Order!

Hon TOM HELM: I do not think the Minister said that. If he said that, it would be before the Parliament at this stage. Maybe Hon Bob Pike has the information and the Press does not have it. Does he not think that it would be headlines in all newspapers if that is what was being proposed?

Hon R.G. Pike: I have photostated the speech released to the public. What more does the member want?

Hon TOM HELM: If members read what the motion says, they will see that Hon Bob Pike does not have a clue about anything he has referred to. Why should the House consider anything that he has said by way of interjection? Paragraph (2) refers to the costs increasing by 25 per cent but contains no proof or evidence as to how that figure was arrived at.

Paragraph (3) states -

> The subcontract system, which will be severely hamstrung if not destroyed in this State under this proposal, presently provides the residential construction industry with the flexibility which enables it to respond to the extremely cyclical nature of house building.

It can respond to the cyclical nature of house building if houses are not being built because people cannot afford to build them. Hon Bob Pike, in all the time that he was on his feet, did not explain to us why the subcontract system would be "severely hamstrung". Again, he has thrown in a few furphies as did Goebbels on the pretext that if one tells people something often enough, they will believe him.

Hon R.G. Pike: Why don't you ask the subcontractors' association what it thinks about your labour council?

Hon TOM HELM: Which subcontractors association? By way of an unruly interjection, Hon Bob Pike asks the Government to ask the subcontractors' association. I am not sure whether that arose yesterday, but I am sure that this House, before it supports this motion, should ask who Hon Bob Pike represents when he condemns Ministers for asking bodies to consider something? I wonder about that because the only State which considers Senator Cook's proposal obnoxious is Western Australia. The Federal bodies of these associations, except for the subcontractors' association, about which I have never heard, have agreed to consider the proposal. That is all they have been asked to do. The Housing Industry Association was asked to consider it and said it would. Many subcontractors work in the transport industry and the employers in that industry are prepared also to consider the proposal. That is all they have been asked to do. We could pass this motion and make fools of ourselves for condemning someone for considering something! Only one body has not replied to the Minister's request for consideration of the matter. It has not said, "No, you can stick it" or, "We will consider it but it is a problem for us." It has said, through Hon Bob Pike who probably does not understand it, that the costs will go up by 25 per cent. However, it will not say that publicly because people in that organisation have more brains than to suggest where costs may go up by more than 25 per cent.

Hon R.G. Pike: The organisation about which you are speaking has said publicly that this is a capitulation to the union movement.

The PRESIDENT: Order!

Hon TOM HELM: Every organisation?

Hon R.G. Pike: All the ones I have named.

The PRESIDENT: Order! I will not keep calling for order all afternoon. I remind members that interjections are out of order. The member who is addressing the Chair should ignore the people who are rudely interjecting to interrupt him.

Hon TOM HELM: I take on board what you have said, Mr President. However, I may get some information from Hon Bob Pike through his interjections; we certainly did not get anything from him during his contribution to the debate. Paragraph (4) of the motion refers to a matter of principle and good government and the necessity to maintain free and competitive enterprise. It states that this proposal would remove healthy competition and efficiency.

[Resolved, that the motion be continued.]

Hon TOM HELM: It is strange to use the word "healthy" in this motion which contains the sick statement that we should condemn people for considering certain matters. How can we have good government if people such as Hon Bob Pike ask us to condemn people for considering a new idea? This has nothing to do with unions taking over the world, or the cost of housing increasing by 25 per cent; we should at least consider new proposals put forward. If this motion is passed, and Senator Cook and the Keating Federal Labor Government are condemned for considering the proposal, it will be difficult for this House to consider a similar proposal which might well be introduced in this House. Hon Bob Pike stated that 67 per cent of the work force is unionised.

Hon R.G. Pike: I said 67 per cent of the Labor Party, not the work force.

The PRESIDENT: Order! I do not know whether I am not speaking plain enough English, but I have told Hon Robert Pike once that he should not continue to interject. I suggest that he heed my warning.

Hon TOM HELM: I stand corrected if *Hansard* proves me wrong; I thought Hon Bob Pike said on more than one occasion that 67 per cent of the work force is unionised, rather than 67 per cent of the Labor Party. Whatever he said, I wish that the percentage of union members in the work force were higher; 67 per cent is a significant amount and it suggests that those people could play some part in making the home building industry as efficient and effective as it currently is. Nobody would suggest for one minute that the trade union movement should not have had a say in how the Occupational Health, Safety and Welfare Act was put together, and how it is administered. I have not heard anyone in this House complain about the operation of the Department of Occupational Health, Safety and Welfare. In the same way, I have not heard anyone condemn the Industrial Relations Commission, or suggest that it is in the pockets of the union movement or affected by what unions say. In fact, I suggest that the Industrial Relations Commission has been praised by this House for its ability to determine what is right, fair, reasonable and just. Hon Bob Pike has moved that we condemn the responsible Federal and State Ministers for asking employers to consider allowing their subcontractors and employees to go to the commission for a determination of their conditions or in the event of unfair dismissal. That is a very topical subject at the moment, particularly in this place. Hon Bob Pike is asking us to condemn people for proposing something different. How then shall we react if some part of this proposal subsequently comes before this House for consideration? I ask the House to reject the motion for the reasons I have outlined. It should be voted against in total.

HON T.G. BUTLER (East Metropolitan) [4.35 pm]: I also oppose the motion moved by Hon Bob Pike, simply because it is probably one of the most misguided motions I have heard introduced in this place. As Hon Tom Helm correctly pointed out, the errors in the motion highlight the fact that Hon Bob Pike has completely ignored the purpose of the proposal by Senator Cook to amend the Australian Industrial Relations Commission Act. I was somewhat stunned by Hon Eric Charlton's contribution because he also argued on the basis of very little knowledge of the proposal by the senator. I gave Hon Eric Charlton more credit than that. Hon Bob Pike has seen fit to become the political voice of the Master Builders Association of WA and the Housing Industry Association, and I am sure they are most embarrassed and regret that move. Hon Bob Pike claims that the proposal would mean the end of the housing industry as we know it, and that it would increase the cost of housing by up to 25 per cent. At no stage during his contribution did he bother to justify that claim.

Therefore, we are left in limbo, wondering how that would be so. Nothing in the motion is factual; it is clearly a figment of Hon Bob Pike's imagination.

Had Hon Bob Pike and Hon Eric Charlton bothered to read Senator Cook's proposals, they would fully understand that he makes it very clear that the intention is to provide the AIRC with jurisdiction to resolve disputes, such as a dispute about whether work done is by virtue of the award system or the subcontracting system, and whether it is work normally carried out under the award system and, in that situation, with regard for custom and practice. Hon Bob Pike clearly demonstrates in this motion his ignorance of the housing industry, and for that matter industry in general, because he should know that the subcontracting system has operated in the housing industry for a long time. I have spoken in this place on several occasions about the operation of the subcontracting system in the housing industry, whereby contracts are made on a take it or leave it basis. No negotiation takes place, and if the subcontractor does not like the conditions, he does not get the job. That is my objection to the system. However, I also realise that by custom and practice this is a subcontracting system and, as such, it escapes the jurisdiction of the Industrial Relations Commission.

Hon Bob Pike calls upon us in this ridiculous motion to condemn a range of people for doing something that he clearly does not understand, and in doing so draws attention only to his ignorance about this matter. We must understand that Senator Cook is trying to establish a situation in which disputes can be resolved. During my period as Secretary of the Painters and Decorators Union I had numerous disputes with employers about the fact that halfway through a job they would attempt to change the system. They would attempt to dismiss people who were working under the award system and tell them they should form a $2 company to become contractors. As contractors, they would be paid the normal award day rate but would be responsible for their own annual leave, sick leave, fares and travelling, and public holiday and overtime payments.

Hon W.N. Stretch: What year was that?

Hon T.G. BUTLER: That was between 1963 and 1983. That practice is rife today. There has just been an inquiry into the roof tiling industry, where the same problem exists.

One of the most amazing things I heard in this debate was Hon Eric Charlton's statement - and this indicates how well he has read the proposal - that the reason the Government wants to do this is to make people enter the PAYE tax system so that the Government will get more money. Have members ever heard anything more ridiculous in their lives?

Hon Tom Helm: He doesn't have a clue.

Hon T.G. BUTLER: Yes. The situation is that these people, who are forced into the subcontracting system, find that PAYE tax is not deducted and that later in the year they have to pay provisional tax, and also prescribed payments, as I am reminded by Hon Kim Chance. It is very clear that Senator Cook is trying to introduce into the system some sanity so that wages employees and subcontractors will be protected. If a wages employee does not receive his correct wages or other award entitlements, he will be able to go to his union and have the union take the matter to the Industrial Magistrate so that the matter can be heard and determined. Under the present system and the narrow definition of employee in the Industrial Relations Act, if a subcontractor's contract is not adhered to by the employer he can go to the Industrial Relations Commission or to the Industrial Magistrate. However, in order to prove that he is an employee under the award, he has to prove that an employer or an employer's representative was in control of the job and giving directions. That is difficult to prove because, in my industry, a painter is put onto the job of painting a house and does not see the boss all day. He just carries on and does the work. The same applies to plumbers, plasterers and bricklayers, regardless of whether they are on wages or on subcontract. Hon Bob Pike is grinning like a Cheshire cat because he knows that what I am saying is correct and that what he is saying is not correct and is, to use one of his famous expressions, a whole lot of Vegemite.

Hon Derrick Tomlinson: Bovril - get your beverages right!

Hon T.G. BUTLER: The situation is very difficult, and often in these circumstances a dispute crops up between the employer and the contractor, employee or worker. Senator Cook is proposing to put in place a mechanism that will give the Australian Industrial Relations Commission jurisdiction to deal with those complaints, and that will give the

worker some form of protection, regardless of whether he is on contract, so that he will not be prevented from joining the union and having the union negotiate on his behalf. There is nothing in Senator Cook's proposal -

Hon Derrick Tomlinson: True.

Hon T.G. BUTLER: - as there is nothing in Hon Derrick Tomlinson's head at the moment, that states, as Hon Bob Pike alleges, that subcontractors will be forced to join a union. Hon Bob Pike is slightly mixed up and has not taken the time to read the proposal, the Minister's Press releases or the *Hansard* debate of the matter. He has read only from a piece of paper that states that the Housing Industry Association and the Master Builders Association of Western Australia believe that the proposal will lead to the end of the housing industry as we know it. Only a person like Hon Bob Pike, who lives on the edge, would leap to his feet and run around saying, "Look at what the Government is doing! There is no need for me to chase up the facts. I have read it in the paper, and this is what will happen." Hon Bob Pike is a great one for holding up documents and for quoting four lines from what appears to me to be four pages of A4 paper. I do not suggest for a moment that Hon Bob Pike would take anything out of context, but I am prepared to offer him a copy of Senator Cook's speech, and I ask him to show me where it is proposed that people will be forced to join a union.

I will not bother to answer any of Hon Bob Pike's Bovril about the 67 per cent of the votes on Labor selection committees. All I will say is that Senator Cook is trying to bring into a complex area some rational thinking to establish jurisdiction in the Australian Industrial Relations Commission to give the presidential members of the commission jurisdiction to resolve disputes, unlike the confrontationist policies in the conservatives' industrial relations program which Hon Bob Pike would prefer.

HON R.G. PIKE (North Metropolitan) [4.50 pm]: In answering the questions raised by Hon Tom Helm and Hon Tom Butler I should commence by putting the facts right. The nub of the question which was answered by both of those speakers dealt only with what Senator Cook was or was not proposing. It is significant that in this instance not one word was uttered by the Labor Party speakers about Mrs Henderson's speech copy - which I am happy to table - from which I quoted specifically and which specifically names the members of the Ministerial Council. The notes state that a range of issues that require a changed approach on the employers' part include -

> Consideration of a move towards more of the workforce becoming employees rather than subcontractors, with genuine supplementary labour in order to honour all awards and agreement obligations;

I am happy to table that speech at the conclusion of this debate. The members in this place more closely associated with unions in the past, Hon Tom Butler and Hon Tom Helm, have been given the sidearms to answer the motion. The facts are that if we were to admit, which I do not, that Senator Cook's proposal is not what we say it is - and Hon T.G. Butler and Hon Tom Helm have both said that what we say about Senator Cook is incorrect - no-one has said that what the State Labour Ministerial Council has said to employers is false or lacking in fact. With the professionalism that one usually ascribes to Hon J.M. Berinson, they have taken a leaf out of his book and completely overlooked, omitted, dodged, fudged, and disregarded the issue which stands as part of the motion. That is, let it be admitted - and I do not - that Senator Cook has not made the proposal; but what the hell about the comments of the State Ministerial Council? The Ministerial Council has said to employers to get rid of subcontract labour and replace it with union labour to honour all awards and agreement obligations. I noticed with a great deal of interest that members opposite did not ask for a copy of Mrs Henderson's speech. Here it is! Not one word has come from State ALP members in this House in defence of the State Labour Ministerial Council which was called together to solve the problem, and which has said that employers should get rid of contractors and subcontractors and bring them under award systems. I note the silence. What is the answer to the silence? Why are members opposite silent? Why do they dodge the issue? Why do they pretend that the State Labour Ministerial Council did not say what it said? I have quoted the comments about seven times. The State Labour Ministerial Council consisting of Ministers Henderson, McGinty, Taylor, Hallahan, Smith and Gallop made recommendations. I quote again -

> The Ministerial Council is supported by an interdepartmental committee comprising

> of the relevant departments falling under the responsibilities of Ministers on the Council . . .

and has recommended -

> Consideration of a move towards more of the workforce becoming employees rather than subcontractors, with genuine supplementary labour in order to honour all awards and agreement obligations;

Hon T.G. Butler: What is wrong with that?

Hon R.G. PIKE: I am delighted that the member is now saying that he supports that.

Hon T.G. Butler: I am asking what is wrong with it.

Hon R.G. PIKE: The member was remarkably silent before. I regard it as a significant success to have at last a Labor Party person say he supports the State Labour Ministerial Council's recommendation to get rid of subcontractors in this State. That is what those words say categorically, precisely and specifically.

I return to the argument put by both Hon Tom Helm and particularly Hon Tom Butler, who was more precise than was Hon Tom Helm who took us on a Cook's tour but did not deal with the issues. Those members ignore the fact that these organisations considered and implemented a massive campaign against Senator Cook's proposed legislation, arguing that it was a vehicle for union interference in already efficient operations, a restriction of individual rights and a capitulation to the union movement. Which organisations argue that Cook's proposal does that? The answer is that they are the employer bodies, including the Metal Trades Industry Association, the National Farmers Federation, the Australian Chamber of Manufacturers, the Housing Industry Association, and the Master Builders Association. Therefore we are not arguing about what Hon R.G. Pike thinks of Cook's proposal; we are arguing about a detailed submission from those very well known leadership groups representing most employers in Australia, but more particularly representing the farmers in Australia who say precisely that what Hon Tom Butler and Hon Tom Helm say about Cook's proposal is incorrect. Hon Tom Butler says that Cook is not doing that at all but something really different, and that I ought to read the difference. Hon Tom Butler says I am wrong, and so are the Metal Trades Industry Association, the National Farmers Federation, the Australian Chamber of Manufacturers, the Housing Industry Association, and the Master Builders Association, and so on. Hon Tom Butler is saying that Senator Cook's proposal to unionise the subcontractors is not doing that; we all have it wrong. We have Senator Cook intending to go ahead with this proposal; we have all the major employer organisations, including the National Farmers Federation, dealing with the issue. Yet we are to believe otherwise on the say-so of two members of this House; we have it all wrong.

Some comment was made about the professionalism of the estimate that a $100 000 house would increase by 25 per cent. The article of 27 April states that the industries and employer groups have estimated cost increases of between $15 000 and $25 000 to the cost of a $100 000 house. That article has not been challenged. I ask members to contemplate whether, if they were to have a brick fence built, they would ask a subcontractor for a price or whether they would go to someone with unionised day labour being paid by the hour. What method would cost more? It would be interesting to know whether Labor Party members opposite, the public socialists and private capitalists, would build their own front fence and use unionised labour or whether they would get a subcontractor to give a quote. It would be interesting to know what the farming members opposite would do were they to build on their farms. Would they rush off to a heavily unionised industry to have the farm buildings constructed or would they rely on subcontractors? By their actions we will know them.

The fact is that the only substance in any argument put forward by Hon Tom Helm - and it was an innocuous argument - is that Senator Cook's proposal is only a proposal, and that because it is only a proposal it is wrong for us to be critical of it, notwithstanding the fact that all the major employer organisations within the Commonwealth of Australia have attacked it as a move to unionise industry across the board. Notwithstanding all of that, he says we ought not to be criticising it at this time, because it is a proposal. The corollary, of course, is that we wait until it is introduced as law, by which time, since the Labor Party has the numbers in the Federal Parliament for the time being, the argument could well be, "What is

the point of dealing with it? It is too late; it is law." If one applies a democratic thought process to what is going on one quite legitimately disagrees with something when it is proposed. Senator Cook has proposed it federally. Every major employer organisation in the Commonwealth of Australia has opposed it by saying it is a capitulation to the union movement which will eventually eliminate subcontracting as we know it in this country. The Labor members, Hon Tom Helm and Hon Tom Butler, argue that that is not the case and that we should let the House judge who is credible. Finally, I refer to the argument by Hon Kay Hallahan, and the so-called Ministerial Council speech given on 23 April by Hon Yvonne Henderson.

[Questions without notice taken.]

Hon R.G. PIKE: The view expressed in my motion is shared by all of the major employer organisations in Australia, including the National Farmers Federation, all of whom are conducting a massive campaign because Senator Cook's proposal is a vehicle for union interference in an already efficient operation, a restriction on individual rights and a capitulation to the union movement. Hon Tom Butler and Hon Tom Helm have said that what the Opposition said is incorrect, and the Opposition is saying that it is to the contrary.

On top of that, Opposition members made no mention of the capitulation of the Ministerial Council, which includes Hon Kay Hallahan, when on page 4 of its document it proposes that employers get rid of the subcontracting system and replace it with so-called genuine supplementary union labour in order to honour awards and agreement operations. I ask the House to support the motion.

Question put and passed.

MOTION

Road Traffic (Infringements) Amendment Regulations (No 2), Road Traffic Code Amendment Regulations (No 4), Road Traffic (Drivers' Licences) Amendment Regulations (No 4) - Disallowance

Order of the Day read for the resumption of debate from 29 April.

Debate adjourned, on motion by Hon Fred McKenzie.

MOTION

State Energy Commission (Electricity and Gas Charges) Amendment By-laws (No 2) and State Energy Commission (Electricity and Gas Charges) Amendment By-laws - Disallowance

Order of the Day read for the resumption of debate from 29 April.

Debate adjourned, on motion by Hon Fred McKenzie.

ADDRESS-IN-REPLY - FOURTEENTH DAY

Motion

Debate resumed from 30 April.

HON J.M. BERINSON (North Metropolitan - Attorney General) [5.18 pm]: As is usually the case, the Address-in-Reply has attracted speeches from almost all members. The range of issues dealt with in that process has been unlimited and it is generally accepted that this precludes any detailed response. Therefore, I thank members for their contributions and where members have asked that consideration be given to certain issues I will ask that relevant Ministers consider them.

Question put and passed; the Address-in-Reply thus adopted.

STANDING ORDERS COMMITTEE

Report Tabled 3 December 1991 - Committee

Debate resumed from 19 March.

The President (Hon Clive Griffiths) in the Chair.

Hon GARRY KELLY: I move -

That the report be noted.

I have moved this motion to give members the opportunity to have a free ranging debate on the report of the Standing Orders Committee. Members will note that only one of the committee's recommendations will, if adopted by this Committee, change the Standing Orders by appointing Deputy Chairmen of Committees for the life of the Parliament and increasing the number of Deputy Chairmen from three to five.

Item 1: Custody of, and access to, committee documents - LA Message #70 -

Hon GARRY KELLY: Legislative Assembly's message No 70 is an appendix to the report. The Assembly passed a resolution to deal with evidence taken in camera and requested the Legislative Council to pass a similar resolution. If members read the deliberations of the Standing Orders Committee on the Legislative Assembly's message they will realise that the Legislative Council neither destroys in camera evidence nor does it put a time limit on when it can be released. The relevant committee makes a decision about the material and if the House so determines it makes a decision to either release the information or keep it under wraps. I refer members to the last paragraph of item 1 which states -

> The question must also be asked whether a blanket prohibition for 10 or 30 or 100 years is desirable or whether a more flexible approach designed to balance private rights and public interest is preferable.

In discussions with the Clerk I found out that the necessity to respond to that died with prorogation and there is no formal requirement for the Council to reply to the Assembly's message. However, out of courtesy I dare say that the House will.

With those few comments I leave this item open to the Committee to debate.

Hon D.J. WORDSWORTH: I formally second the motion. It is satisfying to know that the House has already satisfactory arrangements for the keeping of committee evidence. It has not been in a similar situation to the Legislative Assembly when it was found to have destroyed vital documents concerning the Midland abattoirs inquiry. It was the most disgusting exhibition I have seen by any Parliament. While that will not occur in this place because all documents relating to committees are kept we should stipulate the length of time documents should be kept before they are released to the public. The question was posed about a blanket prohibition of 10, or 30 or 100 years. In most cases the committees are disbanded and the Clerk is left with no instructions about whether the evidence should be made public. All committees should recommend whether there should be any prohibition on the release of information to the public and for what period.

Item 2: Questions -

Hon GARRY KELLY: Members will note that in a letter to the President dated 7 May 1991 Hon Peter Foss objected to answers to questions being given by referring a member to an answer given in the Legislative Assembly. Several reasons were given about why the member found that to be objectionable. The concept was advanced as to whether it is a proper answer. The last paragraph of item 2A could be regarded as a recommendation and it states -

> The committee recommends against any change to standing orders, but expresses the view that ministers, to the extent possible, should always provide a narrative answer rather than answer by reference to external data.

Again, I leave this item open to comment.

Hon PETER FOSS: My concern about item 2 is that in some ways it is already dealt with under the Standing Orders. A referral to an answer given in the Legislative Assembly must necessarily be a referral to proceedings in the other place. On the face of it, it is already covered by Standing Orders and is an improper answer in that respect because it is in breach of Standing Orders. However, this sort of thing never comes closely before the House because it is included in the answer booklet and turns up in this House on a piece of paper. The normal procedure whereby objection could be taken to that sort of happening and breach of Standing Orders is lost to members. I hope that some mechanism is in place so that when we receive answers which appear on the face of it to breach Standing Orders of the House

attention can be drawn to those answers in an attempt to get a direction from the President that as those answers refer to proceedings in another House they are in breach of our Standing Orders, wrong and therefore should be done again. If I am correct in saying that Standing Order No 94 applies, then we probably do not need an amendment to the Standing Orders in order to stop that happening. However, we need some means by which we can draw to the attention of the House the fact that such things are happening and to remind Ministers who are allowing such answers to go into the answer book that they must not do things in that way.

Hon GARRY KELLY: Perhaps you, Mr President, can assist the Committee. Hon Peter Foss has said that if a question, presumably on notice, returns with reference to an answer given in the Legislative Assembly that is in breach of Standing Order No 94. In that case, I would have thought the answer would not be accepted for printing.

Hon Peter Foss: It is.

Hon GARRY KELLY: I know it is, but it is in breach of Standing Orders, so why is it sent for printing?

Hon GEORGE CASH: Item 2 deals with questions.

Hon Garry Kelly: We are dealing with 2A.

Hon GEORGE CASH: Yes. The question that needs to be answered is whether debates in the other place include the answers provided to questions in the Legislative Assembly and referred to Ministers in this House as being the appropriate answer to a question asked in this place. I, along with Hon Garry Kelly, seek your advice, Mr President, as to what constitutes debates of the Legislative Assembly and what constitutes proceedings of that place.

I find it grossly offensive and most objectionable when Ministers in this House answer questions by referring members to answers to questions given in the other place and on reading both the question and answer referred to in *Hansard* the member finds that the answer applies to the question asked in the other House only. One often finds that the question asked in the Legislative Council is not the same as the one asked in the Legislative Assembly but that the member who asked the question has been invited to accept the answer given in the Legislative Assembly as relevant to both questions. I am aware that the Standing Orders of the Legislative Council provide that Ministers do not have to answer questions. However, it seems to me to make a mockery of the process of asking questions when Ministers - in my view at times trying to deliberately send a member off on a tangent - are prepared to use the same answer for a number of different questions.

The PRESIDENT: In an endeavour to answer the questions raised by Hon Garry Kelly and Hon George Cash as to what constitutes a proceeding and what constitutes a debate, a debate is a record of discussion on a particular matter. The asking of a question is not part of a debate but part of the proceedings in the House and is recorded in the Minutes of Proceedings as one of the proceedings in the House. It is a quite different matter altogether. Debates are clearly the record of a discussion on a particular matter. Hopefully, honourable members will be satisfied by that answer.

In answer to the question asked by Hon George Cash about the adequacy of an answer given by a Minister to a question asked in this place and that answer being the same as an answer given to a question asked in the other place, and if I understand what he is saying - that is, that the two questions are not exactly the same but the answer is - a remedy certainly exists to deal with that. Indeed, a remedy exists for any answer a member receives from a Minister if that member feels that the answer is wrong, misleading, or not what it ought to be. That remedy is for that member to move some sort of motion directing the Minister to provide the information sought. Members will find explained clearly at the top of the page following the one on which point 2A appears that a member who believes that an answer is wrong, misleading, deficient, or generally unsatisfactory has the right to move for an order directing the Minister to provide the information sought. The House is then in a position to judge the case on its merits after debating the motion.

Provision exists in this place for members to move motions directing Ministers or any member to provide information to which they feel they are entitled. The fact that members do not choose to do that is their concern. One of the reasons for the circumstances that Hon Peter Foss has mentioned is, of course, that we chose a few years ago to change the format of

how answers were received in this place. I did not like that change. Hon Peter Foss has given us one very good example of why the procedure we now use is deficient; that is, because it is published in a document that to all intents and purposes is not read out in the House. At one time every answer to a question had to be given verbally in this place. Perhaps that is something we should consider.

I turn to the matter raised by Hon Peter Foss which the Committee dealt with: The Committee could not bring itself to recommend any particular action other than to remind the House of the action that is open to a member who feels aggrieved.

Hon PETER FOSS: Standing Order No 138 contains a number of statements about how replies should be given. That is the Standing Order which gives the method for putting answers on the Notice Paper as opposed to their being read in the House. It seems to me that it would be reasonable under those circumstances, as we have taken up that method of doing things, to deal with some of the objections that have crept in. I do not believe it is practical in some cases to move a motion every time a Minister answers a question unsatisfactorily. This is not confined to the matters I raise here. I will refer to an answer given in the Legislative Assembly. The other sorts of things that could fit into the same area of objection include the statement, "The Minister for Health has provided the following reply." It is totally irrelevant to this Chamber that it is the Minister for Health who has provided the reply. The fact is, it is the Minister in this Chamber who is giving us the reply and either he takes responsibility for it or he does not. Merely referring to the Minister for Health's providing the reply is just as objectionable as referring to an answer in another place. On one occasion I think we had not even a Minister referred to, but an indication that the State Government Insurance Office had provided the reply. I find that objectionable.

With all these matters I believe that if we are to have replies which are delivered in writing to the Clerk's office and then published in a Supplementary Notice Paper it is important that we have some rules governing the way in which that is done. I do not think it is practical for a member of this Chamber, after having received an answer which says, "The Minister for Health has provided the following reply", to have to stand up and move that an order be made that the Minister in this Chamber provide the answer. It is up to the Minister to say that he will give the reply or he will not, but he should at least take responsibility for the reply that is given. I do not believe that every single time we should have to move that the question be answered, especially when an answer is provided but the Minister in this Chamber, contrary to the Constitution, has not taken responsibility for that answer.

Hon George Cash: We have presidential rulings that insist that the Minister -

Hon PETER FOSS: Precisely; nonetheless, we keep getting these answers referring to answers in another place, or explaining that the Minister for Health, or even the SGIO, has provided answers. Because there has been such constant and flagrant disregard of the Constitution, the constitutional conventions, and the directions and rulings of the President I believe that we have reached the stage where we need to put something appropriate in the Standing Orders so that at last something is done about the things that are going wrong in this place. We raise these problems again and again. I do not think the solution you suggest, Mr President, is necessarily in every instance a practical one, especially when we consider that this Chamber recently passed a motion dealing with the obligations of a Minister to answer questions and his constitutional responsibility in regard to it. It was passed unanimously, yet people still disregard the basic constitutional understanding of why questions are answered.

I submit that the proper way to deal with item 2A of the Standing Orders Committee report - to deal with this and with all the other little things that go wrong with the way questions are answered - is for us to say that a Minister, in framing his reply, should make it quite clear that it is his reply, and should give a reply which is his reply and does not incorporate proceedings in any other place. If we do that we will start to get a bit closer to having questions answered on a proper constitutional basis. Then, because the procedure will be in the Standing Orders, it will be capable of being enforced; whereas at the moment I think there is no way to enforce it because the answer goes straight into the book and there is no practical way of raising it before the Chamber.

The PRESIDENT: I will respond to that later.

Hon DOUG WENN: The speech Hon Peter Foss has just made is a little hypocritical. Paragraph 2.2 of the report of the Standing Orders Committee says that it is not a proper answer because it requires research in *Hansard*. The member is saying that when a question is put to a Minister in this place he should answer it himself, rather than its being answered by the Minister responsible; yet when a question is put to the Leader of the House representing the Minister for Fuel and Energy a member is asking another Minister, through that Minister, a question about that portfolio area. If, as Hon Peter Foss is saying, the Minister sitting in this place must give that answer, that means the Minister must do all the research for the member. In other words, Hon Peter Foss can sit there and chuck every question to the Minister and do no research himself. That is a little hypocritical. Hon Peter Foss is bringing up things we have discussed in this place before, and we ended up going back to what we were doing previously. The Minister is responsible, if the member wants to say that, but not to accept the appropriate Minister's response is the wrong way to look at it.

The PRESIDENT: A long time ago, somehow or other I found that when these reports were being discussed I had to be the Chairman of Committees. I am not quite sure how that came about but it certainly was not because I was looking for something to do. However, one of the reasons given for me to do that was that, at the time, the Chamber believed that it was better to deal with Standing Orders Committee reports in Committee so that members could carry on a continuous discussion, whereas if we dealt with them in the House members could speak only once. It was also suggested that the President, by acting in this capacity, could answer questions as they arose in an endeavour to allow members to come to a conclusion a little quicker, perhaps. Therefore, from time to time it was felt that I should say something. If I am to do that I had better make my responses before too many speeches are made, because I will forget what members have said if I wait too long.

I did make a ruling on the responsibility of a Minister in this place for answers given. That ruling still stands, and is irrefutable.

Hon D.J. Wordsworth: They do not take any notice of it.

The PRESIDENT: It is a matter of opinion whether any notice is taken. If the Minister says in his reply to a question, "If you look in last week's *Sunday Times* you will see the answer to the question", that is an answer to the question. It may not be the answer the member wants, nor one he considers satisfactory, but it is in fact an answer to the question. However, my ruling was that the Minister is responsible for the answer, and if anything contained in the answer is incorrect he or she bears responsibility for that; not the Minister in another place, not the man outside Hoyts, and not the journalist who wrote the article in the *Sunday Times*. The Minister is responsible. That is what my ruling was all about.

The Chamber did not challenge my ruling. Indeed, that ruling stands and it is a ruling that prevails in all Parliaments: The Minister is responsible for the answer. Hon Doug Wenn said that a member cannot expect the Minister for Education, who represents the Minister for Health, to be familiar at first hand with questions relating to the portfolio held by the Minister in another place and therefore it is not unreasonable - although I personally do not like it - for her to say, "I got my information from the Minister for Health, who said this"; because that is an answer. However, the Minister for Education takes the responsibility for whether that answer is correct. She must have confidence in the Minister for Health that he has given her the correct answer. If the Minister for Health gives her the incorrect answer it is not the Minister for Health who is answerable to this Chamber but the Minister for Education, and that action underlines the ruling that I made; that is, that if a Minister accepts a ministerial situation in this place he or she accepts responsibility for the words that are uttered, no matter what the source of the information. If the source of the information is incorrect, if the answer is incorrect, then the Minister has misled this place and the Minister is answerable for that.

I believe that what the Standing Orders Committee is saying in regard to item 2A is simply that there is an action the Chamber, and the member, can take. Despite Hon Peter Foss' view that it was a cumbersome way of going about it, I can assure him that he would have to do it only a couple of times before the Minister got the message. I can give members an absolute guarantee that if I were not occupying the Chair, and I was asking questions and not receiving proper answers, I would ensure that the Minister wished to goodness that he or she had given proper answers. It is within the power of the House to sanction a Minister who

continues to provide inadequate answers, and that Minister would soon become sick and tired of motions moved day after day on the matter.

The document submitted by Hon Garry Kelly is simply a record to provide an opportunity to consider the thinking of the committee when it dealt with these matters, and to provide an opportunity to members, if they wish, to give notice of some motion to change the Standing Orders. It would then be up to members to determine the outcome of that. It is a matter of letting the proposition run its course within the Chamber; that is all this report says.

Hon PETER FOSS: I thank you, Mr President. I appreciate your comments. I realise that the remedy lies in our hands, but my problem is that some Ministers in this place, notwithstanding your ruling, still seem to take the attitude that the answers they give are not their responsibility if they come from another place. For instance, if the Minister for Health is providing a reply, the Minister representing that Minister considers that he or she has no responsibility to check the reply. That is not correct and Standing Orders should reflect that. The orders should say that a reply should not be phrased in a manner to indicate that a Minister does not take responsibility for the answer. Any intent to give such an impression is wrong.

The second reason for this change is that we have heard the Leader of the House say that he does not have responsibility for an answer because it went into the answer book without his seeing it. He claims that it is not his answer if he has not seen it. How can that answer go into the answer book if the Minister says that it is not his and is from another Minister in another place? Ministers in another place have no authority to answer questions in this Chamber. An answer incorporated into the answer book without the Minister claiming it as his answer is not an answer given by a member of this Chamber, and should not be in the answer book at all. We must ensure that before an answer is entered into the answer book, it is a Minister's answer. It is possible for Ministers to say, "I do not know. Somebody else provided the answer." I realise what you have said, Mr President, but it is in defiance of your ruling to continue to give such an indication within answers. Also, we must be absolutely certain that members receive answers from Ministers as opposed to answers from strangers in another place.

Shortly I will draft a notice of motion indicating that the Standing Orders Committee should be directed to go back and look at these Standing Orders to ensure that formal questions in the Chamber are answered, and that Ministers take responsibility for the answers given.

The PRESIDENT: It is quite competent for Hon Peter Foss, or anyone else, to subsequently move a motion that the Standing Orders Committee re-examine this question in the light of the member's and other members' comments. I cannot preempt what that committee will do; however, if that motion were moved, the committee would have the benefit this time of comments made and it may well look at this issue in a different manner. That option is open to all members.

Hon D.J. WORDSWORTH: In supporting Hon Peter Foss' comments, I remind Hon Doug Wenn that his Premier established the Burt Commission on Accountability which made recommendations regarding the scrutiny by the Parliament of the Executive and various Government departments and bodies. It is rather unfortunate that the Premier chose a group of people who knew very little about Parliament. I do not wish to detract from these people, but the membership was Sir Francis Burt, Mr Ross Bowe, the Under Treasurer, Mr Bill Brown, the then Executive Director of the Confederation of Western Australian Industry, Mr Alan Smith, the then Auditor General and Mr Tim McComish, then a senior partner with Messrs Dwyer Durack. The report states that the recommendations contained in the report are but means to an end, and the attainment of the end depends upon the proper cooperation of the parliamentary system and upon the proper use of parliamentary questions in particular. In other words, it indicates that Ministers must be responsible for their departments, and must be prepared to answer parliamentary questions regarding various organisations under their control. That report was received and accepted by the Parliament.

I conducted some further research and obtained a paper by John Uhr titled "Questions Without Answers; An Analysis of Question Time in the Australian House of Representatives". It is worthwhile quoting from page 17, as follows -

> The scrutiny of the executive by the legislature has a mighty rhetorical ring to it, yet

> few modern observers would think the House's Question Time to be a sufficient guarantee of this great claim. While it would be an overstatement to say that the founding fathers saw a question time procedure as the primary guarantee of ministerial responsibility, such a statement is not all that far from the historical truth. The Australian House imported the procedure for questions which had emerged at Westminster in the late nineteenth century; as the new century emerged, the Westminster Parliament developed many supplementary procedures to help give substance to responsible government. Although the Senate was eventually to develop a viable system of parliamentary committees, the House until very recently remained firm in its dedication (or pretense) to the overwhelming efficacy of Question Time.

This person commenting on the Australian situation believes that one cannot rely too heavily on question time.

When one considers the differences which have emerged between the Westminster and the Australian system, many examples have arisen. I quote now from an article by Tony O'Grady titled "Question Time in the McMahon Era" -

> In the British Parliament the questions are generally asked on notice ... the Australian minister, on the other hand, is officially given no notice at all ...

The great difference is that under the British system members ask supplementary questions. Therefore, members of the House of Commons are allowed to ask the Minister further questions which are not on notice. The average question upon notice is usually followed by five or six others. Under this system the British Minister often faces a barrage of questions on the one issue and evasion becomes extremely difficult. Unfortunately, we know that evasion is not difficult under our system. The article continues -

> The third difference is that while Australian Ministers can be questioned without notice on any sitting day at all, the British have developed a rota system. Under this system there is a roster determining which Ministers are to be available for questioning on particular days.

Therefore, the Prime Minister is available one day of the week and the Ministers rotate. Having got that Minister up, of course he can be subjected to a barrage of questions. To continue -

> Well over fifty members will ask questions and some ministers will face barrages of a dozen or more questions on one issue and they will often answer thirty to fifty questions in one session. Evasion is very difficult and ministers and back-benchers have ample opportunity to show their worth.

Although members here complain about too many questions being asked, the British system handles many more. The Australian attitude is typified by a statement made by Paul Keating referred to in a publication written by Hon Wal Fife MHR about Government attitudes in 1988. We know how the Prime Minister answers questions! He highlighted the Government's attitude when he said that question time was a courtesy extended to the House by the Executive branch of Government. In other words, he completely ignored the fact that the Executive should report to the Parliament on what it administers. He referred to question time as a courtesy. One of the problems which arises in our House is that Parliament has been accused in newspaper articles of not supervising the Executive.

Sitting suspended from 6.00 to 7.30 pm

Hon D.J. WORDSWORTH: Before the dinner suspension I was reminding members of the difficult situation we are in, highlighted by the fact that the Burt Commission on Accountability placed great significance on the ability of this Chamber and the other place to ask questions of the Executive. Professor Martyn Webb, in an article in *The West Australian* newspaper, accused parliamentarians of having not undertaken their due responsibility over WA Inc because they had failed to undertake the necessary inquiry expected of them. The Australian Parliaments have developed their own form of question time, which is completely different from that of the current British system. That is highlighted in the article I referred to earlier.

Hon GEORGE CASH: I am also concerned that the Standing Orders Committee has decided not to codify a Standing Order to make very clear Ministers' responsibilities when answering

questions. During the dinner break I examined some of my files and noted that the question of ministerial responsibility is raised in this House almost annually. The President made a statement to the House on 31 August 1989 in which he clearly set out ministerial responsibility relating to the answering of questions. Again, on 12 June 1991, he made a further ruling on that ministerial responsibility. As a result of one of those rulings the Standing Orders Committee was requested to consider that ministerial responsibility and the application of the convention covering the provision of answers to repetitive questions. At the time, one of the recommendations of the Standing Orders Committee reaffirmed the President's rulings and suggested that there was no need to codify any Standing Orders so that members might be more clear about the matter.

Unless we codify the situation we will work ourselves into a position where we must rely on the President's ruling. That is quite correct and should not be the subject of challenge. However, if a member were to decide he was unsure of the basis of the ruling, notwithstanding that it was founded on the customs and precedents of Houses of Westminster Parliaments around the world, we would be in the position of challenging the President's ruling. I do not believe that is the correct way to handle matters in this House. The President's rulings are unquestionably right. Rather than put the House in a position of requiring a member to move to dissent from the President's ruling, it is proper that the Standing Orders Committee should draft an appropriate, unambiguous Standing Order so that members would understand that a Standing Order was in place which would cover the situation.

Any question which might arise about ministerial responsibility would then be a matter of determining whether a Minister had contravened the Standing Order, rather than a member's having to make a direct attack, so to speak, on the President's ruling. Many advantages exist in our providing a very clear Standing Order, given the recommendation on this question given by the Standing Orders Committee in its report delivered to this House in October 1989. I should think the Standing Orders Committee would have no difficulty devising a suitable Standing Order and that we could quickly adopt it so that the matter could be put to rest once and for all.

Hon FRED McKENZIE: I do not wish to question the President's ruling. It is competent for the Chamber to make some decisions about responsibilities which lie with the President. I do not think that responsibility for an answer to a question relating to a portfolio of a Minister in another place should rest with the Minister in this place if he is provided with a misleading answer. When answering questions on behalf of a Minister in another place it is appropriate that a Minister in this place should say that the Minister for whatever the portfolio might be advises as follows. Only three Ministers reside in this House. The other place has as many as 13; therefore, the three Ministers in this place are responsible for 13 other Ministers. Irrespective of the ruling - I know the matter has a long standing precedent - the situation is quite unfair.

Hon D.J. Wordsworth: I am disappointed that you did not support me when I was in that position.

Hon FRED McKENZIE: The question we are now faced with never arose when Hon David Wordsworth was Minister. He was never held responsible and no-one ever said that he was. The issue of Ministers being responsible for answers given on behalf of Ministers in another place is a new matter. I know that Ministers have always been responsible; I am not suggesting that they have not been. However, that responsibility was not questioned to the extent that it is being questioned now. The Opposition is demanding that Ministers in this place be responsible for answers given on behalf of Ministers in another place. I cannot recollect during the six years that I was in Opposition any question being raised about Hon David Wordsworth as Minister for Transport being directly responsible for an answer given on behalf of a Minister in another place. That has now occurred with the Ministers presently in this Chamber and it is grossly unfair. How can members opposite expect Ministers in this place to have a full grasp of the portfolios of Ministers they represent as well as their own portfolios? They cannot guarantee the veracity of the answers they give on behalf of other Ministers; they do it in good faith. If action were taken against a Minister for giving a misleading answer, that action should be taken against the Minister in the other place following a report from this House. When a Minister is expelled from this House or when other action is taken resulting from an answer that the Opposition considers misleading, this

matter will come to a head. I hope we do not reach that stage; if we do, there would be an outcry from the community.

I do not know the circumstances for the President's original ruling, but it is competent for any ruling to be altered, and rulings have been altered. Different rulings are given in this place from rulings that are given in the other place. I repeat that it is unfair that the three Ministers in this place should be held responsible for answers that they give on behalf of Ministers in another place.

The PRESIDENT: The ruling was given because a Minister in this place - I think it was the Leader of the House - indicated, in response to a query on an answer, that he was not responsible for the answer supplied to him by somebody else. I gave a deeply considered ruling based on precedent and on parliamentary practice throughout Westminster Parliaments. However, I remind members also that I placed the embargo - if that is the right word - on members asking Ministers in their representative capacity questions without notice because, prior to my giving that ruling, that was the accepted practice; in fact, Ministers gave answers to questions asked without notice related to portfolios for which they were acting in a representative capacity.

Hon D.J. Wordsworth: You did that for the benefit of this Government, not the previous one.

The PRESIDENT: Hon David Wordsworth is wrong. I gave that ruling in the time of the Court Government, a long time ago, because of the very thing about which Hon Fred McKenzie spoke; that is, the question of unfairness. If a member were genuinely seeking information as a result of a question in Parliament, it seemed unreasonable that he could ask a Minister a question without notice in his representative capacity and expect him or her to know the answer. Therefore, I ruled that, if a member asked a question without notice, it could only relate to the Minister's portfolio responsibilities. If the question related to something for which the Minister represented another Minister, the question had to go on notice. I made that ruling in the interests of fairness. However, nothing that I said or did when I gave that ruling ever raised a question of doubt as to the responsibility of the Minister for the answer that he or she might give. My subsequent ruling in 1989 was that the Minister was responsible. The 1989 report of the Standing Orders Committee states -

> As such, the House would need to judge whether a breach of privilege had occurred in the same way that it would decide the issue if an allegation of deliberately misleading the House were to be raised against any member.
>
> Accordingly, we see no need to discuss the practical impact of the principles in the statement, modified or not. In our opinion, the minister's responsibility under the reference is that described in the counter argument, viz, impliedly warranting that the information provided by a ministerial colleague is accurate and correcting it if it is found to be wrong. The House should only penalise a minister -

This is the important point referred to by Hon Fred McKenzie -

> - where it is demonstrated that its privileges have been infringed, eg, deliberately misleading the House.

In other words, that is not to say that, if a Minister accepts responsibility and the information provided is found to be wrong or misleading, the Minister will find himself at the end of a motion evicting him from the House. That would be a decision that the House would be asked to make if it were discovered that the Minister had deliberately misled the House. We are debating an issue far wider than the report which was introduced by Hon Garry Kelly earlier tonight. We can go on talking about the philosophical attitude, but the fact of the matter is that the committee said in 1989 that -

> The committee believes that it would be undesirable to codify by means of a standing order or resolution a situation that should remain dynamic. The degree of responsibility and the form it takes is something that the House will need to consider as each occasion arises.

I said that two hours ago. The report continues -

> The committee suggests that little point would be served by the House crystallizing, in 1989, a convention that is capable of adaptation to meet changing circumstances. Moreover, there is danger in the House adopting a formulation of the convention in a

very restricted area while leaving the rest unregulated. We therefore recommend against adoption of a standing order or rule.

We are saying with regard to the specific question raised by Hon Peter Foss that we do not disagree with that rule and we still have that view. However, we go further and say that a member who believes an answer is wrong, misleading, deficient, or generally unsatisfactory has the right to move for an order directing the Minister to provide the information sought. The House is then in a position to judge the case on its merits after a debate of its motion.

To me, that is a reasonable report. I am not suggesting that the House cannot put forward a proposition suggesting that we alter it. This committee considered the matter - and the committee consisted of members from all parties - and made this report. If the Committee does not accept the report but wants something different, as I said earlier, a member can move a motion asking the committee to re-examine the matter, and to prepare a Standing Order that will do whatever members in the Chamber want. I want to stress that the committee has not just nonchalantly made the decision; it has given the matter deep consideration.

We must deal with this report. As we go through the report honourable members are free to comment on it, but it is incorrect for them to debate it as though they were being asked to adopt the proposition. They are not being asked to do that. The motion before the Chair is that the report be noted. On the way through, members may comment on the report but they should not be embarking on this wide ranging debate on a matter that is outside the content of the report. The question can be argued at a later stage if somebody moves a motion asking for a specific Standing Order to be dealt with.

Hon GEORGE CASH: I am sure the Committee is well advised by the comments you, Mr President, have just made. To enable the Committee to move on from this subject, but notwithstanding the fact that the opportunity will arise at the end of debate on this report, I formally advise members that Hon Peter Foss has advised me that he intends to move a motion to ensure that the codifying of an appropriate Standing Order is dealt with today as part of consideration of this report. You, Mr President, are right in saying that we could spend the rest of the night talking about whether Ministers are responsible.

Hon J.M. Berinson: Can you foreshadow the terms of that motion?

Hon GEORGE CASH: I will give the Leader of the House a copy of it in a few moments. I make that point so that members are clear that the Opposition intends that this matter be dealt with at the conclusion of consideration of this motion.

Hon FRED McKENZIE: I certainly had not remembered the events in 1989 and your explanation, Mr President, makes the position much clearer to me. I had not intended to speak in the debate and was reluctant to do so, but I thought that we were in the process of codifying the requirements. Your comments about the procedure that should be adopted in relation to a misleading question are indeed sensible and I have no argument with them. I thank you, Mr President, for putting me on the right track. If a motion comes before the Chamber as a result of the acceptance of the notation of the report, I will debate further the points raised.

Hon PETER FOSS: I am trying to arrive at a point at which Ministers recognise their position. I find that at present that recognition is not taking place. If people accepted responsibility for an answer, it would not be sufficient for them to merely to put the answer in the answer book without reading it and satisfying themselves that it was the correct answer. It is not enough that Ministers do not purposely mislead the House; they must have in the first instance taken the responsibility for having done so. If they are negligent, to a reckless degree, in allowing an answer to go into the book without having checked its origin, and indicate that they take responsibility, they are just as culpable as if they -

Hon J.M. Berinson: Do you accept that Ministers have other things to do than check the 600 or 700 questions for which other Ministers have provided answers? There would be no time left for actual work if they did that.

Hon PETER FOSS: I am glad the Leader of the House made that remark because it indicates the very attitude that I find offensive. The Leader of the House does not seem to regard it as a serious duty of his to satisfy himself that the answers have been adequately provided. That is the very point I am trying to make.

Hon J.M. BERINSON: In the first place, I regret that I have not been in the Chamber during the whole debate. That no doubt explains why I am a little puzzled as to the nature of the debate I have heard. So far I have heard nothing at all about question 2 which is listed in the committee's report; namely, answers by reference to Legislative Assembly answers. I have heard debate relating only to the responsibility of Ministers in this House when acting in a representative capacity. Those are quite separate questions. The second of them was not only the subject of your ruling, Mr President, that has been referred to but was also the subject of a special report by the Standing Orders Committee. I am not aware that any disagreement with that report was expressed in this place. I have not had a chance to check *Hansard*, but my understanding is that the report was not questioned at all and certainly that no amendments were moved to it. In addition, it is fair to say that, since that report, no-one has raised the issue as being one of any substance, nor has any Minister in this Chamber been attacked for failing to measure up to the standards outlined in that report. All of a sudden today, on a quite unrelated question, we appear to be entering into a lengthy discussion on the question of the responsibility of a Minister acting in his representative capacity. This appears in the motion which Hon Peter Foss apparently intends to move and which the Leader of the Opposition has been good enough to provide to me. Frankly, I do not believe that a motion of the nature now suggested would follow from this report at all. If a motion of this nature were moved, it ought to be moved in the ordinary way envisaged by the Standing Orders.

Hon George Cash: Which is at the end of the debate on this report.

Hon J.M. BERINSON: No, because this report has nothing to do with it. It does not mention a Minister's responsibility when acting in a representative capacity, and it would be a complete misunderstanding of this report to accept that it could reasonably found a motion on an entirely different subject.

Hon George Cash: This report deals with the proposed changes to the Standing Orders.

Hon J.M. BERINSON: I am not raising a point of order on this question now but I am suggesting that if it is in order to move a motion, such as Hon Peter Foss has now circulated, on the basis of this report, it would also be in order to move without notice a motion going to the amendment of any other Standing Order. That cannot be right. That would have to be a gross distortion of the purpose of this sort of debate and, with due respect to everyone who is concerned about the responsibility of Ministers, I have to say that is a discussion for another time.

Having said that, and having expressed how irrelevant this subject is to the present motion, I will pick at random the first question which is answered in today's Supplementary Notice Paper. I ask members to remember that Ministers in this Chamber must represent not only their own portfolios but also, on average, four or five other Ministers, each of whom has two or three portfolios. Members must ask themselves whether it is reasonable to put to me the proposition that I should satisfy myself on the answers to the first question which is answered today. I do not want to take too much time and I ask, therefore, that question on notice 130, together with its answer, be incorporated in *Hansard*.

Leave denied.

Hon J.M. BERINSON: I will simply summarise the position by saying that this question, taken completely at random and simply on the basis that it is the first question which appears in today's Supplementary Notice Paper, has 22 separate parts. Part (6) asks, "Is the Minister aware that it is law in about half of the States of America that all new supply contracts have a least cost planning study?"

Hon Peter Foss: Come on! Do you really not understand the constitutional position so that you cannot see what is your duty?

Hon J.M. BERINSON: I understand the practical position which Hon Peter Foss continues to ignore. Now we are getting to the point, because I have no trouble with the constitutional position. I accept the constitutional position, as our own Standing Orders Committee has summarised it. I accept that there is a responsibility, in constitutional terms, on a Minister in this Chamber for answers provided by a Minister in another House. I accept that as a constitutional point. I am saying that the member cannot suddenly hurdle from a constitutional situation to a practical situation and demand not only that Ministers in this

Chamber should take constitutional responsibility but also that they should accept responsibility for the particular facts provided in a question.

Hon Peter Foss: That is not what I said.

Hon J.M. BERINSON: That is precisely what Hon Peter Foss said.

Hon Peter Foss: You only hear what you want to hear.

The PRESIDENT Order! Members are starting to make it look as though they disagree with one other. I suggest that they do not need to carry on like that. The Leader of the House has only two minutes left, and I suggest that he explain to me what are his views and let Hon Peter Foss tell me later what are his views.

Hon J.M. BERINSON: I am staggered that Hon Peter Foss should now be trying to change the sense of matters which he put to the Chamber very explicitly less than 10 minutes ago. He said then that there was a responsibility on the Minister to stand by the facts provided in the answers which come into the Chamber under his name. He said that it was not good enough simply to put it in the answers book; the Minister should read it and satisfy himself that the answer is acceptable. How can I satisfy myself about the position in at least half of the American States unless I start to study the position in those States?

I will give another example and go to part (22) of question on notice 130, which has four parts. It states -

> If the Collie power station is built -
>
> (a) what will be the value (including interest charges) of natural gas paid for by State Energy Commission of Western Australia, but left in the ground by year 2000;

Hon Peter Foss is seriously asking me to attend to and satisfy myself about that question; he has stated that I need to satisfy myself in all of those respects. I accept the constitutional position. I have never questioned the report of the Standing Orders Committee.

Hon PETER FOSS: Hon Joe Berinson has tried to trivialise what is the duty of a Minister, and I am afraid that has been his constant behaviour with regard to questions. I take as an example his own portfolio. Frequently when answering questions in relation to his own portfolio he has to rely upon information given to him by others. It is quite right that he should do so. When he gets the information from others I have no doubt he looks at it and asks himself whether on the face of it it appears to be a reasonable answer to the question. If he is not satisfied on the face of it that it is a reasonable answer I am sure that in his own department he will go back to the officer and say that he finds the answer somewhat unsatisfactory. He will ask to be illuminated further or obtain an answer that he thinks is adequate -

Hon J.M. Berinson: You are right. I can do that because I have the background which enables me to ask the question.

Hon PETER FOSS: Only recently I raised three questions with Hon Joe Berinson which he answered in this Chamber on behalf of the Premier. They were questions which on the face of it were inadequately answered; his answer to one of them was that he was not certain he had seen it, and in the case of the others he said that he was answering on behalf of the Premier and that they were the Premier's answers. If on the face of it answers are inadequate; if they are - as many answers by the Premier are - useless and evasive, and in effect refusals to answer but appearing on the face of it to do so, and if Hon Joe Berinson allows answers like that, he should take responsibility for them. Anyone reading the answers I was given would have known perfectly well that they were inadequate. That is why I accuse Hon Joe Berinson of giving inadequate answers.

Hon J.M. Berinson: By what measure?

Hon PETER FOSS: Hon Joe Berinson could have read the answer and gone back and said that it was not an answer which he could give, that it was evasive to give that sort of answer, and that he would not give such an answer in the Legislative Council because the Legislative Council would not be happy with the answer. That is what I mean by being unaccountable. In the case of the answer to question 130, on the face of it there is no reason that it should have been queried further. However, Hon Joe Berinson should at least have looked at it.

Unless he does that, how will he be in a position to say he should go back to the Minister who provided the information? Hon Joe Berinson seems to take the attitude when the information is provided by a member of his department that it is proper. I think I heard Hon Joe Berinson interject that it would be proper to go back to members of his department and say that on the face of it an answer does not appear to be correct. However, when it is one of his fellow Ministers -

Hon J.M. Berinson: It is not just proper, it is my responsibility and I have the background which allows me to do that.

Hon PETER FOSS: Exactly! There is a responsibility there. That is the word I keep saying, and that is the very thing Hon Joe Berinson keeps avoiding. Although the President's ruling is as clear as could be, although I understand the reasons for the committee's recommending as it did, the fact remains that regularly - and if Hon Joe Berinson cannot remember my interjections that is unfortunate - Hon Joe Berinson avoids his responsibility. If he puts answers in the answer book without having looked at them to see whether on the face of it they are adequate, he is not being responsible. The Leader of the House might disagree with me about that, but if he allows something to go in the answer book without having read it how can he say that he has discharged his responsibility? Can Hon Joe Berinson honestly tell me that he would answer questions in this House the way he has allowed himself to answer questions on notice by adopting the Premier's answers on the three questions I raised in the other debate? The questions received dreadful answers. They were answered in breach of proper accountability of a Minister; they were wrong answers that could never be defended. The most casual reading by Hon Joe Berinson would reveal that fact.

If he had taken his responsibility seriously, if he had not wanted to be saddled with the answers, if he had not wanted it to be said that he had given the answers and took responsibility for them, he should have gone back to the Premier and said that he did not like the answers and that he believed on the face of it that the answers were dreadful. However he did not do that, and he cannot get out of it by saying that he stated at the beginning of the answer that the Premier had provided the answer. He cannot get out of it by saying that he did not see it go into the answer book. Neither of the two answers is sufficient if on the face of it they are inadequate. That is what I mean by taking responsibility, in the same way as Hon Joe Berinson takes responsibility for his own staff. We understand the Leader of the House could be accidentally misled by his own staff. If that happens we have sympathy for him, but it does not excuse Hon Joe Berinson when, on the face of it, the problem is whether he should be capable of determining whether to go back to the department. If Hon Joe Berinson disagrees with what I mean by that he can say so, but he should not try to trivialise what I said. He should not read question 110 and say that I wanted him to go back and check it personally.

Hon J.M. Berinson: The member should look at *Hansard* tomorrow and see what he said.

Hon PETER FOSS: Hon Joe Berinson now understands what I mean.

Hon J.M. Berinson: Yes. What you want to do is to be highly selective of the questions you expect me to consider in detail.

Hon PETER FOSS: No. I expect the Leader of the House to at least read the questions and if, in the same way when he receives an answer from a member of his staff, the answer appears on the face of it to be wrong, he should go back to the staff and ask for a satisfactory response. I admit that, in the case of his own portfolio, what on the face of it is unreasonable and what is reasonable are likely to be different things.

I would like to answer the other point raised; that is, the reason I foreshadowed the motion. First of all, item (2) deals directly with the point of recommendation 2A. However, the important point is that we are dealing with the form of answer. I have picked up the first and general form of answer which on the face of it shows that the Minister takes responsibility, and I will generally pick up the question of what the President said about answering questions. The second point deals with the reference, and the other two deal with the form of answer. On that point, I refer members to how it used to be in 1981-82. In *Hansard*, volume 3, for that year at page 3454 questions were asked of Ministers in their respective capacities. Every time the question was answered properly. I refer specifically to a question asked by Hon P.H. Lockyer to the Minister representing the Minister for Transport. The question was -

What is the anticipated completion date for the upgrading and sealing of the Leinster to Leonora road?

Hon D.J. Wordsworth replied -

Completion to the blacktop stage should be achieved in early November 1981 and sealing is planned for completion in 1982-83.

Of course, Mr Wordsworth did not know that; he would have received the information from the Minister for Transport, and the Minister for Transport in turn would have received the information from someone with close knowledge of Leinster and Leonora. We understand that situation, but we also expect that every single part of the chain should have appropriate checks in it. Obviously in some parts of the chain the check will be more rigorous than in others. In each part of the chain the responsibility will feed its way back.

When we say to Hon Joe Berinson that he has the answer wrong, he replies that he is sorry he got it wrong, but he had relied on the Minister and the answer appeared to be appropriate. He says that he will go back to the Minister because it is embarrassing to him to have given the wrong answer; he will see what the Minister says. Hon Joe Berinson should go back to the Minister and say that the Minister has put him in a nasty spot. He should say that he wants to know what is the answer. In turn, the officer will go down the line and say that Hon Joe Berinson has been embarrassed because he has given a wrong answer in the House, and he is held responsible for it. Obviously Hon Joe Berinson will not have strips torn off him, but it is an embarrassing situation and therefore they must do something to remedy the situation.

The PRESIDENT: I have been patient with this debate. Everyone has had a fair go and the debate has gone far wider on recommendation 2A than it ever ought to have gone. We have had substantial debate on it. A motion has been foreshadowed, and I should tell the Leader of the House that I will have no hesitation in accepting the foreshadowed motion. We ought to proceed, at this stage, to recommendation 2B, because the question before the Chamber is nothing more than that the Chamber note the report - not that it objects to the report or that it might like to amend the report, or anything like that. I say that in the interests of our not becoming bogged down in something that can be effectively dealt with by way of a foreshadowed motion - indeed, any other foreshadowed motion that may come to light as we go through this report.

Hon J.M. BERINSON: I share the Chairman's surprise at the extent to which the debate has gone. I did not expect it to take as much time as it has. It is important that we get on to the discussion of Bills, particularly the South West Development Authority Bill which I am hoping to see through to completion tonight. There will be some further occasion to enable consideration of this and of any resulting motion.

Progress

Progress reported and leave given to sit again, on motion by Hon J.M. Berinson (Leader of the House).

SOUTH WEST DEVELOPMENT AUTHORITY AMENDMENT BILL 1991

Second Reading

Debate resumed from 28 April.

HON BARRY HOUSE (South West) [8.22 pm]: The Opposition supports this Bill, which sets up a specific area advisory committee to the South West Development Authority, namely, the Peel Advisory Committee. The Bill is a fait accompli because the Government in its usual manner has already set up the advisory committee, advertised for positions and the Minister has made appointments to the committee. That has been done before and the Government purports to call it consultation. While on the subject of consultation, yesterday I contacted a couple of shire councils to ascertain their position on this legislation and at least one shire could not recall receiving a copy of this Bill. That takes us back 18 months when this legislation was introduced in the House in a slightly different form. On that occasion the Opposition provided the relevant shire councils with a copy of the Bill and it appears we have to do the Ministers' work again.

The Opposition supports this Bill because it is in line with its policy as enunciated as far

back as the 1989 State election. The Opposition's policy was to create a separate Peel development authority from the existing South West Development Authority. That very rapidly expanding area, particularly Mandurah, has very little in common with the southern part of the area under the jurisdiction of the South West Development Authority. The Opposition led the way in promoting the line, which has lately been followed by the Government, of appointing a shadow Minister for the Peel region, Roger Nicholls, the member for Mandurah.

Hon Doug Wenn: Surprise, surprise!

Hon BARRY HOUSE: He is doing an excellent job in that role. The Bill is a little different from the legislation which was introduced 18 months ago in this House which had the clear intention of developing several area advisory committees throughout the South West Development Authority. It was not specific and that is why the original Bill did not get the support of the Opposition, local authorities or the people in that area. The legislation was not desirable but the Opposition indicated its support for, and even tried to encourage the Government to amend its legislation to make, a specific area advisory committee for the Peel region. The Government was not prepared to do that at that time but finally it has come forward with this legislation. The Opposition also noted that it was important to ensure local government representation on that advisory committee. That advice has also been taken and there will be a healthy local government representation on the Peel Advisory Committee that has been set up. That is very clearly necessary because it is not a desirable situation to have local government and the local ward of the Country Shire Councils Association of WA (Inc) in conflict with the South West Development Authority.

I now wish to make a few general comments about SWDA. The South West Development Authority needs to lift its game. Its credibility has been damaged by recent events and this has caused many people to pose questions to the authority. In the past the Opposition has had the finger pointed at it, however, this criticism has not come from the Opposition but from a wide variety of people. The first issue damaging the credibility of SWDA was raised in the "First General Report of the Auditor General for 1992" which was presented to Parliament one month ago and concerned the authority's accounting manual. The Auditor General stated -

> The Authority had not maintained its accounting manual in a current state for some years and despite management giving assurance that action would be taken, the audit for 1990-91 showed that the manual was still not in a current state.

This statement came on top of other statements made in the Auditor General's annual reports over the last four or five years that the authority's accounting procedures needed attention. We still have not seen, despite the assurances of the Minister year after year, that that problem has been addressed. The problem still exists and the Auditor General sees it as an obvious flaw to the South West Development Authority fully complying with the provisions of the Financial Administration and Audit Act and therefore it must be addressed. We cannot continue with the situation where the Minister expresses platitudes that action will be taken but nothing happens.

The second issue which has caused many people to question some of the activities of the South West Development Authority relates to a seminar organised and conducted by the SWDA, and from newspaper reports we are aware of that seminar. I am also aware, after hearing from people who have come to my electorate office and, recently, from evidence provided to a parliamentary committee, that clear links have been established between that SWDA seminar and recommendations to women to invest in the Western Women group, headed by Robin Greenburg. Many people at that seminar interpreted the advice as recommendations from the authority to invest with Western Women. There were disastrous consequences for several women in the south west who took that advice, and they have lost their life savings.

The third issue relates to the report of the Standing Committee on Government Agencies which was tabled in this House last week and of which I am a member. That committee considered evidence on the South West Development Authority, came to several conclusions and made several recommendations. One recommendation related to debt levels carried by the SWDA. The SWDA is the only development authority which seems to operate in this manner and to carry such enormous debts. It is also the only development authority - in fact

the only Government agency of this nature - which requires such a large proportion of its consolidated revenue funding to service its debt levels. The debt level for the SWDA at 30 June 1991 was $18.6 million. Of the last Consolidated Revenue Fund appropriation for 1991-92 - which was $5.434 million - $3.045 was required to pay and service that debt. Roughly three-fifths of its total allocation is now servicing its debt.

The committee recommended that an alternative mechanism of payment for capital works borrowing be considered. In addition, the method that the SWDA has employed in the past - I certainly hope it is all in the past - to employ consultants was questioned. The employment of consultants to the authority was often done without calling for tenders and that has raised the ire of many people, and has certainly raised many questions about the methods used to employ those consultants.

The appointment of Mr Read, a former member of Parliament, to the position of special projects officer with the authority was done without advertising the position. I freely admit that Mr Read may be a well qualified person for the job and that I do not know much about the types of jobs he has done since he has been in the position. He may have been appointed to the position had it been advertised, but it was a foolish and not an astute move by the Government to make that appointment without advertising it. This is another issue which has damaged the credibility of the SWDA, because now, particularly in the Mandurah area, local government and individuals approaching the SWDA are concerned that they are not talking to an independent body but to a link of the Labor Party.

The allegations of the former Mayor of Mandurah, Bruce Cresswell, were also investigated to some extent by the committee; however, it did not carry out that investigation as far as it might have. Obviously, in a committee which consists of members from all parties, when there is not agreement on all issues some members of the committee are not able to pursue the matter further. Mr Cresswell alleged that the political activities of the authority were damaging its cause.

All of this should put the South West Development Authority on notice for the future that it has a job to restore its credibility in some areas and that it must re-focus its efforts. Since the authority was established in 1985 it has been shown that there are definitely doubts about its accounting procedures. Doubts have also been expressed about its methods of hiring consultants and about its tendering processes. There are certainly questions about its debt levels and how it services that debt and questions about some of the activities to which it has lent its name and in which it has been involved. I have mentioned only one of those; that is, the seminar which established clear links between the authority and the Western Women group. Since its inception, there have been questions about the authority's political interference in local government and its role as a political institution first and foremost. The authority needs to get back on track and fulfil its role as a facilitator and coordinator for community projects and as a generator of jobs.

Hon Doug Wenn: Are you going to come back to the Bill or is your speech all about the South West Development Authority?

Hon BARRY HOUSE: Hon Doug Wenn can speak next. The South West Development Authority has a role to play; that is, it must fulfil its ability to generate community initiatives. The south west is certainly not immune to low unemployment rates, which are roughly the same as in the rest of Australia - about 11 per cent across the board. The most horrific feature of this unemployment is that at least 35 per cent of young people are unemployed - perhaps the figure is higher in the south west - and with the recession biting deeply into the economy of the south west, the authority has a role to play. It must focus its efforts clearly on its economic development brief. It can certainly play a role in the economic regeneration of the south west's economy. It could do that if it avoided some of the unnecessary and constant duplication that it seems to be involved in with other Government departments and local government.

The Opposition supports the Peel Area Advisory Committee and hopes that it will fulfil a role in the Peel region. I know some of the people who have been appointed to that committee and they are people of the highest calibre. I have the greatest faith in their abilities to perform a valuable role in the community. Generally, the Opposition supports the Bill. I look forward to the establishment of a future Peel development authority, which is in line with the Liberal Party's policy. I support the Bill.

HON DOUG WENN (South West) [8.38 pm]: I support the Bill. At the outset one must be happy that the Opposition supports this Bill because the most of the speech by Hon Barry House signified nothing like support of the Bill. On the contrary, his speech went in the opposite direction because he did not talk about the Peel Area Advisory Committee. He started the usual charge - as do all Opposition members representing the south west - against the South West Development Authority.

Hon P.G. Pendal: There is no need to be angry just because your party did not do well in the local government elections on Saturday. We are talking about the South West Development Authority.

Hon DOUG WENN: Hon Phil Pendal must have been hit in the head earlier because he is rambling on. I commenced my speech by referring to Hon Barry House's contribution and to the proposed Peel Area Advisory Committee. Hon Phil Pendal should be happy about the local government election results in Bunbury because Buswell was elected.

Hon P.G. Pendal: He is one of your cousins.

Hon DOUG WENN: He is and I do not hold that against him.

The rhetoric of members opposite who represent the south west is typical. They take every opportunity to criticise the South West Development Authority. One day they will acknowledge its achievements. Many of its achievements have been in a blue ribbon Liberal seat; that is, the electorate of Vasse and I refer members to the Margaret River Hospital and to the proposed family centre at Busselton. I wonder when Opposition members will get it together and realise that the authority is doing a great job and that it has become a role model for other authorities. I am proud to be in a position to say that; and if members opposite care to investigate who was on the board of the original South West Development Authority they will find that Paul Omodei was one of those people. Do members opposite want to blame him for some of the problems? The member for Collie, Hilda Turnbull, is another of those people; should we blame her for some of the problems? Dr Ernie Manea was another person involved, and I suggest to members opposite that they attack him and see what they get back. I suggest to them that they should not criticise the authority because it will bite them on the backside.

I found it disappointing, for the reasons I have expressed both inside and outside the committee, that Hon Barry House referred to the findings of the Standing Committee on Government Agencies. The committee was not referring to the South West Development Authority, but to the accusations from one person. It was made clear that the appointment of consultants for the projects which are under way in Mandurah were made by the council. At that time the council was led by a mayor who made several accusations when he was dumped from that position.

Hon Barry House: Are you saying that there are heavies on the council?

Hon DOUG WENN: The member heard the decisions and there were no heavies. He said that the appointment of John Read was inappropriate. It may have been, but it was above board and there was nothing illegal about it. If it had been illegal the committee would have gone in boots and all because Hon Barry House would not have allowed it to go any other way.

Hon Barry House: Are you saying that Terry Metherell's appointment is okay?

Hon DOUG WENN: The member does not really want me to answer that question because he knows it was atrocious. I am talking about a person who was out of work. If members opposite want to refer to Greiner my colleagues will come up with a real answer.

In regard to the member's allegations about Cresswell he was simply making statements based on innuendo and he was not able to prove the accusations.

Hon Barry House: You have to admit that we didn't pursue those allegations.

Hon DOUG WENN: There was nothing to pursue. Is the member saying that the committee's decision was incorrect?

Hon Barry House: No.

Hon DOUG WENN: I will not take the matter further because the member should not be

interjecting. I accused Hon Barry House of not referring to the Bill before the House in his contribution and I am doing exactly the same thing.

I come back to the South West Development Authority being a role model for other development authorities. Hon Barry House may not like it, but he does not have any qualms about the Great Southern Development Authority or the Geraldton Mid-West Development Authority. Those authorities are working well and they are copying the South West Development Authority.

This Bill is long overdue and the Peel Area Advisory Committee should have been established years ago. The area covered by the advisory committee includes areas in my electorate as well as the Shires of Boddington, Murray and Waroona and the City of Mandurah.

I refer to the Minister's comment about looking three years down the track because the population growth in that area will be sufficient to give the committee its own autonomy. The committee will comprise 13 members, eight of whom will be representatives from local shires. Members opposite made the point that the committee has already been selected, but I inform them that it is only an informal committee until this Bill is passed.

I was pleased to hear Hon Barry House say that the Opposition supports this Bill. The City of Mandurah is expanding rapidly and it is basically a suburb of Perth. Transperth has a service which operates to Mandurah and there is talk about a rail link between Perth and Mandurah. Thank God that several millions of dollars will be saved because this Government resurrected the railway line between Fremantle and Perth. The proposed rail link will be well patronised. The Main Roads Department is undertaking work on the Dawesville Cut and a dual carriageway is under construction to Dawesville. The work will attract more people to the area. This may, of course, be detrimental to the city and to surrounding shires, but Mandurah will become like Bunbury and will be a springboard to areas in the south west.

Hon Barry House: Its growth rate is higher than Bunbury's.

Hon DOUG WENN: It will attract people to places like Boyanup and Dardanup and as soon as the dual carriageway to Busselton is completed it will attract people to that area.

Hon Barry House: Unless they get hit by a mineral sands truck.

Hon DOUG WENN: They will not; I do not wish that on anyone.

The Peel Area Advisory Committee will be a great asset to other development authorities which are being established around the State. I am sure that Hon Kim Chance will pick up on a comment which was recorded in *Hansard* about the need for a development authority in the Katanning, Narrogin and Wagin areas. At this stage they are being handled by Bunbury and Albany. In time it will become part of the system.

Hon Barry House: A system of regional councils is already in place.

Hon DOUG WENN: Yes, but no advisory bodies are in place. It is a different body altogether, is it not?

Hon Barry House: Not really. They see themselves as performing a valuable service.

Hon DOUG WENN: No-one could take that away from them; their contribution is astronomical. We could not do without them. They can always link up with an advisory body or a committee such as the one about which we are talking today. They are already linked to the advisory committees in other areas. I welcome the Opposition's support for the Bill, at last. I regret Hon Barry House's attack on the South West Development Authority, but understand he has been attacking it since coming into this Parliament and will no doubt continue to do so after he leaves, probably next year. I support the establishment of the Peel management committee, which will be a great asset to this fast growing area. I support the Bill.

HON J.N. CALDWELL (Agricultural) [8.52 pm]: I am speaking to the South West Development Authority Amendment Bill on behalf of Hon Murray Montgomery, who is overseas on business. I endorse the comments made by Hon Barry House, who covered the Bill thoroughly. Labor has been in power for nine years and has been slow in learning how to appoint people to committees. It has not advertised committee positions well enough.

Hon Doug Wenn: What are you talking about? All positions were advertised.

Hon J.N. CALDWELL: The Government has been criticised about this tonight and has received criticisms from the public about this matter. I do not know why it continues in this way not only in relation to personal appointments but also property development and sales. The glaring matter that comes to mind is the sale of the Midland saleyards, for which tenders were not called. That has resulted in a festering sore for everybody, not only the Government, but also farmers. People still do not know what will happen to those saleyards, where matters have been boiling away for some time. The Midland abattoirs problem would not have arisen if proper procedures had been carried out. It is a shame that the Government has not learnt from its mistakes. Mr Read may be the best man who could have been engaged, but no-one knows as no advertisement was placed.

Hon Barry House: The Government would have also avoided criticism.

Hon J.N. CALDWELL: Yes. Mr Wenn said Mr Read was without a job, but many people in the south west are out of a job. They are good people with many credentials who could have done his job well. I do not want to bring down the wrath of Hon Doug Wenn on me, but as this is the South West Development Authority Amendment Bill members are at liberty to talk about the authority. Another criticism of authorities is the way they sometimes cut across local government projects. It is best that their brief be that they do not do that. I support the Bill.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [8.55 pm]: I thank members for their contributions to the debate. I know they always take great interest in these sorts of Bills, which have an impact on the areas which they represent. This Bill is no exception and has given rise to much debate on the south west region generally. It has caused members to express their views on development authorities. I am pleased that members support the Bill and the establishment of this committee, one which will provide better direction for, and enhance the role of, the South West Development Authority while at the same time enhancing and providing better input for people living in the areas of the local authorities covered by this Bill; that is, Boddington, Murray, Waroona and the City of Mandurah. This legislation has been the cause of concern for some members opposite. However, it is the Government's view that it should not cause the concerns raised during the debate last year as it is targeted at meeting the needs of all involved. I am sure it will do much to enhance the work of the South West Development Authority and the areas which will come under the Peel Area Advisory Committee. I thank members for their support.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Police), and passed.

COLONIAL HERITAGE OF PERTH PROTECTION BILL

Second Reading

HON P.G. PENDAL (South Metropolitan) [9.00 pm]: I move -

That the Bill be now read a second time.

This Bill represents a significant opportunity for the Parliament to make a major statement about the colonial heritage of central Perth. As I hope members will see, the Bill offers a once in a lifetime chance to influence central city planning in such a way as to protect its heritage values without in any way prejudicing the property owners, since all are in the public domain. Put another way, there is no private land involved in this Bill.

Central Perth has a group of priceless buildings that form an important link with early Perth. The buildings and their environs include the old Treasury building, the old Lands Department building, the Perth Town Hall, the Supreme Court, the old Arbitration Court and

Stirling Gardens and Government House and its gardens. As a group they are what clause 4 of the Bill refers to as being of "... priceless cultural heritage significance" and therefore worthy "... of the highest protection ..." that we can offer. The passage of this Bill will confirm that.

Effectively the Bill requires that no demolition, excavation or despoliation can occur without the express approval of the Heritage Council of Western Australia. Likewise, any substantial alteration cannot occur without approval. The Parliament is being asked to say that these buildings are in a special category to the extent that the provisions of this Bill relating to demolition cannot be repealed without the endorsement of the people at a referendum.

The Bill has one final - but vital - provision. It seeks to ensure that when the one building in the precinct that is out of harmony with the rest is ultimately redeveloped - namely, the Rural and Industries Bank building in Barrack Street - it is redeveloped in a manner more sympathetic to the history of the area. This will come as a recommendation from this Parliament rather than as an edict, in the belief that a recommendation would be sufficient to persuade the bank to look carefully at its responsibility to the site, the city and its heritage. Given that the bank is a statutory body created by the Parliament, it is a reasonable obligation to place upon it.

The Bill envisages that when the R & I Bank site becomes available a major reassessment of the site will be made. If anyone doubts the significance of what we are being asked to do, I will quote from page 119 of *A City and Its Setting* by Professor George Seddon and David Ravine -

> ... the handsome south facade (of the Town Hall) with its colonnade (was) intended as an open market-place. This facade has long been obscured, currently by the Rural and Industries Bank. It is to be hoped that it will eventually be restored to view as part of a long-term project to redesign Perth's most historic precinct.

I would especially ask members to note not only the argument in favour of looking to do something about the site, but also the final remark that confirms the area as Perth's most historic precinct. To pass the Bill would be to accommodate, at least in part, the views of these eminent authors.

It is an opportune time to be discussing the Bill, given that the R & I Bank may well be considering the future of the Barrack Street building in light of its ownership now of the one-time Bond Tower at the rear of the restored Palace Hotel. While the Bill seeks to encourage the R & I Bank to redevelop in harmony with the precinct, the bank is invited to go further. It may well be that, as a public agency, it will show a preparedness to discuss with the Government of the day a complete withdrawal from the site. I do not suggest that it should do so to its own financial detriment. The freeing up of this site would not only open up the southern facade of the Town Hall in a way I have already discussed, but also would allow the land to be integrated into any "clean up" of the inner quadrangle within the old Treasury.

The Opposition has indicated, in a statement by the Leader of the Opposition to mark National Heritage Week in 1991, that a new coalition Government would seek to restore the old Treasury buildings for use as a Cabinet compound. This is appropriate for two reasons. Firstly, the State has not had its own "home" since it left the old Treasury back in the 1960s. It is now time it joined the ranks of the homeowners and quit the rental market. Secondly, the old Treasury still contains the original Cabinet room and it might seem an appropriate place to which to return the decision-making of the State.

Since the preparation of this Bill in 1991 the question of the future of the Council House site has been raised because that building has been found to contain asbestos. Currently the Perth City Council is considering a number of options, one of which is to demolish this 1960s building and either rebuild or move elsewhere. I personally would not like to see the site redeveloped, given that it is the site of the original public offices designed by Henry Reveley between 1836 and 1838 which soon after became the colony's Legislative Council. It may be, therefore, that as an inducement for the City of Perth not to redevelop the present Council House site the State will need to offer it an alternative site, possibly even the old Treasury building itself. Alternatively, the old Lands Department building, which is affected by this Bill, may be a suitable exchange, although I understand some other uses for the Lands Department building may be mentioned by later speakers.

Whatever is the case, members will see that the Bill opens up a wide range of options that generally revolve around a sympathetic redevelopment on the part of the R & I Bank, or that bank's withdrawal from the site. The opportunity will not present itself for a long time - certainly beyond the lifetime of present parliamentarians. This is not a "political" measure. Rather, it is an opportunity for all members of Parliament to take part in a decision that will have a profound impact on the city's earliest history.

I give notice to the Government that the Opposition intends to press this Bill to a vote to ensure it quickly goes to the lower House. I urge all members to support the proposition, and commend the Bill to the House.

Debate adjourned, on motion by Hon Fred McKenzie.

ACTS AMENDMENT (CONFISCATION OF CRIMINAL PROFITS) BILL

Second Reading

Debate resumed from 2 April.

HON DERRICK TOMLINSON (East Metropolitan) [9.08 pm]: The Bill to amend the confiscation of profits Act has two parts. The first amends four sections of the Crimes (Confiscation of Profits) Act. Those amendments are really drafting refinements to clarify some aspects of the Act consequent upon amendments which were agreed to - I would have to say with some degree of haste - in 1990. Subsequent consideration of those amendments and the implications of those amendments - I understand by judges - and in at least one instance the failure of those amendments to accommodate the particular circumstance of the death of an alleged offender, have led to these further amendments to the Act.

The second part of the Bill contains amendments not to the Crimes (Confiscation of Profits) Act but to the Criminal Code, and is designed to make money laundering a major offence. As explained within the second reading speech, the legislation implements an article of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, to which Australia is a signatory. As the Attorney General indicated, because Australia is a signatory to that convention the Commonwealth has indicated its intention to proceed under its external affairs powers to legislate to implement the provisions of the convention, except where it can be demonstrated that the States have independently enacted legislation to implement those provisions. Hence, the proposed amendments to the Criminal Code will take account of that situation.

The Liberal Party supports both parts of the Bill. At this stage I could satisfy the Attorney General by sitting down because I have indicated that we will be voting in favour of the legislation; however, before I finish it is important to place Opposition concerns on the record about the initiatives contained in both parts of the legislation; that is, the amendments to the Crimes (Confiscation of Profits) Act and to the Criminal Code.

Members will recall that in 1990 we enacted an amendment to the Crimes (Confiscation of Profits) Act to enable repeat offenders to be declared drug traffickers. When a person was declared a drug trafficker, and subsequently reoffended, that individual became subject to much more severe conditions regarding confiscation of profits. As I recall, the profits the offender accumulated over a period of six years - the Attorney General may correct me here - before the offence could be confiscated. At the time we were encouraged by the Attorney General to deal with that legislation quickly because cases were pending involving people who were to be caught by those amendments to the Act. We agreed to that request, but we expressed some caution about the reversal of the onus of proof.

The argument was that since we were dealing with drug traffickers, and given the nature of drug trafficking offences, it was difficult using conventional police procedures to demonstrate guilt to the satisfaction of the courts - that is, to demonstrate it on the basis of demonstrable facts. This applied particularly in the accumulation of property on the basis of moneys derived from drug trafficking. It was difficult to demonstrate to the satisfaction of the courts that a person's property was accumulated from drug trafficking income. Therefore, the onus of proof was reversed and the requirement on the defence was that the property could not be confiscated if the defendant could prove that it was acquired from moneys which were not profits from drug trafficking. That is the reversal of the onus of proof. We expressed our caution about that reversal of the fundamental principle of law. As

it generally stands a person is innocent until proved guilty; however, in this instance a person is not necessarily guilty but must demonstrate and prove that his or her property was not accumulated from the proceeds of crime. Therefore, if this proof were provided, that person was not guilty of using the proceeds of unlawful activity - drug trafficking - to accumulate property.

The amendments before the Chamber again apply the reversal of onus of proof. In the case of the confiscation of criminal profits, it is not so much a question of reversal of proof as it is an adjustment or change in another principle of law; that is, the question of hearsay evidence. Clause 4 of the Bill seeks to amend section 3 of the principal Act by defining reasonable grounds to include hearsay evidence. It reads -

> A reference in this Act (except section 12) to "reasonable grounds" or "grounds" includes a reference to reasonable grounds or grounds, as the case requires, based on hearsay evidence or hearsay information.

According to legal convention, hearsay evidence is not acceptable evidence because it is not a demonstrable fact. Therefore, courts are very cautious about accepting hearsay evidence. I am advised that judges have expressed some reservations about the implications of the amendments to the Crimes (Confiscation of Profits) Act passed in 1990 which seemed to require that courts, judges and magistrates accept hearsay evidence or information as a basis for the issuing of warrants and orders. It is at the request of such judges that this matter is to be clarified. The amendment to section 3 was requested so that the position was specified - in other words, the request was that reasonable grounds or grounds based upon hearsay evidence or information be acceptable evidence or information. That single amendment applies to 19 sections of the Act. I will not refer to them individually, but in each instance they reverse that principle of law relating to applications for warrants. Two instances might be referred to; for example, section 20 of the Crimes (Confiscation of Profits) Act where, if a person convicted of a serious offence, or has been, or is about to be, charged with a serious offence, an appropriate officer may apply to the Supreme Court for an order with respect to specified property. In this instance it refers to a person who has been convicted or charged with a particular offence. Under section 20(2) -

> Where the person has not been convicted of the offence concerned, an application under subsection (1) must be supported by an affidavit of a police officer stating that the officer believes -
>
> (a) that the person charged, or about to be charged, with a serious offence, committed the offence.
>
> (b) in the case of an application in respect of specified property -
>
> (i) that a forfeiture order may be made. . .

It requires the appropriate officer making the application to present an affidavit stating that the officer believes whatever is required under subsections (a), (b), (c) and (d) of section 20(2) on the basis of hearsay evidence or hearsay information. Likewise, under section 41 -

> Where -
>
> (a) a person has been convicted of a serious offence and a police officer has reasonable grounds for suspecting that there is upon any land, or upon or in any premises, a property-tracking document in relation to the offence; or
>
> (b) a police officer has reasonable grounds . . .

In other words, subsections (1)(a), (b) and (aa) of section 41 provide that if a police officer has reasonable grounds for believing that a property-tracking document is on a property or in a particular place, the officer may make application for a warrant to enter and search the premises. Under the amendment before the House, reasonable grounds include hearsay evidence or hearsay information. The argument in support of that change in the fundamental principle that hearsay evidence is not acceptable evidence is that the nature of drug offences in particular is such that the policing process depends very largely upon hearsay evidence. Finding a property-tracking document or evidence that the necessary evidence to convict an offender is in a particular place depends upon, for example, someone's having told the police officer that if he were to go to house X in suburbia he would find the evidence. That is hearsay evidence. It is the evidence of a person - an informer if one likes; an undercover

agent - who has told a police officer that a situation exists. In that instance, under the proposed amendment the police officer would be able to apply for a warrant accompanied by affirmation that he believed he had reasonable grounds for suspicion. Again, it is emphasised that we are looking at the particular crime of drug trafficking, or illicit trading in drugs. The nature of that crime or trade is such that it requires unconventional policing methods to detect it. If unconventional policing methods are to be used one needs unconventional provisions within the law to enable those policing methods. Hence, the argument for the acceptance by a judge of hearsay evidence is based on an argument relating to drug trafficking. That is a reasonable argument given the nature of that offence.

However, when this amendment is applied to the Criminal Code it does not apply simply to drug offences. It applies to all offences as an amendment to the Criminal Code. It does not cover only drug trafficking or illicit trade in drugs or other substances; it is an amendment to the Criminal Code and relates to applications for orders and search warrants for any offence. In effect this amendment proposes to apply a particular circumstance of a particular class of crime and the peculiar policing procedures necessary for the peculiarities of those crimes to enable the court to accept evidence which, under conventional law, is not acceptable evidence. The proposed amendment does not restrict that solely to the offenders we are using to justify the change. In fact the proposed amendment will reverse a fundamental principle of law relating to hearsay evidence and hearsay information in a way which has universal application to search warrants and restraining orders. The Liberal Party has some very strong concerns about the consequences of changing the law in that way. We are not attempting to change it on the basis of a change in principle; we are attempting to change it on the basis of a particular circumstance. By the application of that circumstance we change the general principle.

I refer now to the reservations about the amendment to the Criminal Code. The amending Bill creates the major offence of money laundering. As I said at the outset, the creation of the offence of money laundering is in response to an international convention to which Australia is a signatory. We have no objections and no reservations about the creation of the offence. What we have reservations about is subsection (2) of what will be new section 563A. It is referred to as an indictable offence but it will become a crime if the foreshadowed amendment is accepted. If clause 11 is accepted, subsection (2) will state -

> It is a defence in proceedings for an indictable offence under subsection (1) -
>
> (a) to prove that the defendant -
>
> (i) did not know; and
>
> (ii) did not believe or suspect; and
>
> (iii) did not have reasonable grounds to believe or suspect,
>
> that the relevant money or other property was the proceeds of an offence;

It continues to be a requirement of the prosecution to demonstrate and prove to the satisfaction of the court that there has been a crime, an illicit trade in drugs, or an illicit trade in a substance of one kind or another, and that profit has been derived from that illicit trade. It would probably also be necessary for the prosecution to demonstrate beyond reasonable doubt that the defendant was involved in and profited from that crime. It would also be necessary for a prosecution to demonstrate that the defendant had laundered money believed to be the proceeds of that crime. Therefore, the onus of proof of the crime, the relationship of the defendant with that crime and the proceeds of that crime being a profit to the defendant would continue to have to reside with the prosecution. It is then up to the defendant to prove to the satisfaction of the court that the money that he is accused of laundering was not the proceeds of the crime. In other words, the onus of proof is reversed. Proof of guilt of the crime is required by the prosecution; proof of innocence of the money laundering in the sense that one must demonstrate to the satisfaction of the court that the money that one has invested in one way or another - at the casino, in stamps or whatever else it might be - was money legally gained or legally accumulated by the defendant. There is reversal of the onus of proof.

We are presented with the argument that, because Australia is a signatory of an international agreement relating to illicit trade in drugs and psychotropic substances, it is necessary to enact this legislation in good faith or as an earnest of our being a signatory to an international

convention. Given the nature of illicit trafficking in drugs and other substances it is difficult to demonstrate the relationship between money alleged to have been laundered and the profits of that particular crime, drug trafficking or whatever it might be. That is the nature of that offence. Given the peculiarities of drug trafficking to which I referred previously, it can reasonably be accepted that peculiar circumstances of the law may apply to the particular circumstances of drug trafficking. However, just as I argued earlier in relation to the confiscation of profits that we are arguing from the particular offence of drug trafficking or drug related offences, and the peculiarity of those drug related offences requiring unconventional policing procedures and therefore unconventional requirements for the court to allow the application of those policing procedures in an unconventional way because of the particular circumstances of drugs, when applied, the law has a general application, not a specific application. Again, in this amendment to the Criminal Code, it is justified on the basis of our being a signatory to an international convention relating to a single type of offence, illicit drug trafficking, but when applied to the law it does not have a specific application. It does not apply only to the circumstance of that article of the international convention. It has a general application to the money laundering offence.

Hon J.M. Berinson: In the case of money laundering the focus is on the nature of the laundering operation rather than the source from which the money was derived. The case in respect of money laundering is not that drug trafficking or drug offences are sometimes difficult to prove, but that the laundering of money is difficult and in many cases impossible to prove.

Hon DERRICK TOMLINSON: Does the Attorney General agree that the process of laundering is to make clean that which is dirty?

Hon J.M. Berinson: Yes.

Hon DERRICK TOMLINSON: Therefore, for money laundering to be an offence one has to demonstrate that the money was dirty money which has been cleansed by the process of laundering. Does the Attorney General agree with that also?

Hon J.M. Berinson: I don't know that I would put it in that way, but please continue.

Hon DERRICK TOMLINSON: I am trying to make it simple for the Attorney General.

Hon Max Evans: That is how laundering works.

Hon DERRICK TOMLINSON: Yes. The defence of that is to demonstrate that the money which is involved in the alleged laundering was not dirty money, not the proceeds from an illicit activity, but clean money.

Hon Max Evans: Why would it go to the laundry if it were clean?

Hon DERRICK TOMLINSON: That is the defence. I cannot be accused of laundering my dirty money when it was clean money. We are being told that the reason for that reversal of the onus of proof is that the particular offence - drug trafficking - related to that international convention and the onus of proof is necessary because of that offence. My argument is that when we move away from the particular offence and apply it to the general Act, it has general application and not specific application. In doing that, by the specific instance we are making a general change in the principle of law. We have strong reservations not about what the Bill purports to do but about the consequences of what the Bill does. It profoundly changes principles of law by applying the specific to the general or making the specific general. They are the two reservations of the Opposition about the matters contained in this Bill. In spite of those reservations being strongly held, the Opposition does not intend to impede the passage of the legislation. It accepts the argument of the need for the passage of the Bill and, hence, it supports the Bill.

Debate adjourned, on motion by Hon Fred McKenzie.

DECLARATIONS AND ATTESTATIONS AMENDMENT BILL 1990

Second Reading

Debate resumed from 8 April.

HON DERRICK TOMLINSON (East Metropolitan) [9.42 pm]: Much of the time that we

are in this Chamber we tend not to appreciate the importance of what we are doing in terms of the laws we enact. Much of the legislation is almost procedural and much of our response to the legislation is almost mechanical. Occasionally a Bill comes before us which is of such import that we are forced to recognise the importance of what we are doing, and the consequences of our actions are so profound that we must pause and consider the consequences of our acts. The Bill before us to amend the Declarations and Attestations Act 1913 is not one of those Bills; it is a Bill which will simply make some aspects of life a little more convenient for a few people. It will amend the Declarations and Attestations Act to enable two more categories of persons to witness instruments; that is, a deputy town or shire clerk, or a person who is accredited as a chartered accountant or a certified accountant. It is appropriate that the Bill should be sponsored by the National Party because I anticipate that the group whose lives will be made less inconvenient will be our rural dwellers, particularly farmers and small businessmen in rural communities who sometimes need documents witnessed by a certified person. As the Act now stands, in addition to the conventional certifying officers such as JPs, commissioners for declarations and members of Parliament, it includes town clerks, members of municipal councils, the electoral registrar, the postmaster, a State or Commonwealth public servant, a teacher within the meaning of the Education Act, and police officers. A wide range of people may witness a legal instrument and that wide range of people is readily available to people in the city. In rural areas with a more dispersed population they are not as readily available.

Hon Tom Helm: They are not readily available in the Pilbara.

Hon DERRICK TOMLINSON: The member of Parliament is very difficult to find in the Pilbara because when one is in Port Hedland he is in Perth, when one is in Perth he is Kununurra, when one is in Kununurra he is in Cue, and when one is in Cue he is somewhere else. Let us talk about Katanning, where there are lots of school teachers and police workers, and at least one member of Parliament who is always available. However, at the time a person wants an instrument witnessed it is so much easier if the shire clerk is not available to be able to go to the deputy shire clerk or, more importantly, to an accountant. Almost every farmer seems to have an accountant; in spite of the fact that farmers do not have any money, they need an accountant to manage their affairs.

Hon Tom Helm: They need one to manage their debt.

Hon DERRICK TOMLINSON: This proposed amendment will allow a deputy shire clerk or an accountant to witness a legal instrument. The widening of the range of people who may witness legal instruments by including deputy shire clerks and accountants has no profound implications. It only makes business, legal and commercial transactions that much more convenient, particularly for rural dwellers. The Opposition supports the Bill.

HON MAX EVANS (North Metropolitan) [9.48 pm]: I advise the House that there is no such thing as a "certified accountant" as referred to in the Declarations and Attestations Amendment Bill. The correct terminology is "certified public accountant".

Hon J.M. Berinson: Have you circulated that amendment?

Hon MAX EVANS: No, I have just noted the error.

Hon Derrick Tomlinson: It is an amendment on the run.

HON J.M. BERINSON (North Metropolitan - Attorney General) [9.49 pm]: I will follow Hon Derrick Tomlinson's good example from the previous Bill discussed by indicating at once that the Government supports this Bill. The argument for its necessity is six of one and half a dozen of the other, in that if we are to limit persons who can witness statutory declarations, necessarily an arbitrary choice is involved. I do not think the Government pretended that its original list of approved witnesses for purposes of statutory declarations was scientifically based. We attempted at that time to provide a reasonable cover that could cope with most requirements. Experience indicates that the Act as it now stands is adequate for general purposes.

I take this opportunity to correct an impression that Hon Eric Charlton had when moving the Bill, to the effect that there are no appointments of commissioners for declarations as such, and repeat what I indicated by way of interjection; namely, that applications which are justified by the circumstances of various localities have led to the approval of commissioners, but in severely restricted numbers. From memory, a number of special

applications have been from professionals who are acting in various capacities and are involved in substantial country travel. Accountants are included, but I have in mind also various insurance representatives who have indicated similar difficulties being experienced by their clients, particularly those in remote areas, and whose applications have been approved on that basis. Having said that, there is nothing in principle to be said against this Bill, and the Government accepts it on that basis.

HON E.J. CHARLTON (Agricultural) [9.51 pm]: I thank members for their support of the Bill. The point has been made that this Bill will benefit people in country and remote areas. While I acknowledge that the Attorney General has made the point that there will be an opportunity to implement commissioners for declarations, it is not easy to get those applications through, for the reasons that the Attorney General outlined.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon J.N. Caldwell) in the Chair; Hon E.J. Charlton in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Schedule amended -

Hon MAX EVANS: I move -

Page 2, line 12 - To insert after the word "certified" the word "public".

The words "certified accountant" have no legal status. The term should be a "certified public accountant", as recognised by the Australian Society of Accountants. The previous amendments to this Act allowed for auditors and liquidators because the draftsmen were not sure how to use the word "accountant".

Amendment put and passed.

Hon BARRY HOUSE: I welcome this amendment because one of the most consistent visitors to my electorate office has been an accountant in Bunbury who is seeking to become a commissioner for declarations.

Clause, as amended, put and passed.

Title put and passed.

Bill reported, with an amendment.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [9.57 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Sittings of the House - 11 June Extension Proposal

Hon J.M. BERINSON: Our experience today confirms my general view that, when considering our affairs, the unpredictable should always be expected. We have ended up with an hour to spare because some debates went far longer than I had anticipated and I therefore moved to defer further consideration of them, and in other cases debates did not go for nearly as long as I had anticipated, leaving us with a bit of time up our sleeves; I guess that is better than the alternative. I take this opportunity, having raised the question of our sitting times, to give some advance indication to all members that I propose to discuss with the Leader of the Opposition, Hon Eric Charlton and Hon Reg Davies over the next day or so the possibility of our extending by one week the sitting days of the Council. Members will be aware that the calendar that was distributed in advance of the session proposed that our last day of sitting be on Thursday, 4 June, and that we would then go into recess until the Budget session commenced on 25 August. What we are faced with at this stage, with only three projected sitting weeks to go, is a considerable backlog of Bills still held in the Assembly but requiring our attention this session.

Hon D.J. Wordsworth: What about those Bills that are not written yet?

Hon J.M. BERINSON: I do not know to which Bills the member is referring but there could well be some in that category. We had one indication of that last week where a special circumstance led to the Premier's undertaking to implement legislation that had not been anticipated earlier. That, however, is by the way.

I stress to members that I have taken any measures open to me to try to balance up business being introduced in the Assembly and the Council but that this session has been more difficult in that respect than most because of the preponderance of new Government business which is required to be introduced into the Assembly. The difficulties in that respect are increased by the Government's decision to look for increased sitting hours in the Assembly over the next three weeks. I understand that the Assembly will sit each Wednesday night after this week, contrary to its regular practice. In addition to that, the Assembly - and again unlike our own recent practice - is likely to sit much later into the morning in some cases than we do. The long and short of it is that on present indications there will be a very substantial flow of legislation from the Assembly to the Council in that week which is now listed as the last week of our anticipated calendar. I believe that this situation could leave inadequate time for the Council to consider Bills which for one reason or another must be finalised this session. I will therefore be looking to have the agreement of the Opposition parties and Hon Reg Davies to the extension that I have now flagged. I am taking this first opportunity to advise all members of this proposal to minimise any difficulties which members might face in what was to be the recess period and which might result from this forward planning.

I will be proposing that the Council sit until Thursday, 11 June instead of completing its business on Thursday, 4 June. It all amounts to a proposal for one extra week's sitting. I have only one general observation to make in addition to that, and it arises from the fact that, although the extent of the problem this session is probably greater than in a number of others, the Assembly necessarily has many more Bills initiated in that House than we have here: It could very well make sense in some circumstances, although not in the forthcoming Budget session because of the number of Bills that will still be held over, to adopt a practice whereby the Council starts its sittings in any session a week later than the Assembly and ends a week later. That I think would make some sense in a number of situations but I do not think it will help us this year, because even with the current session extended by one week I would still expect a fair number of Bills to be held over in this Council and ready for consideration as soon as we resume in the Budget session.

I think this advance notice will be of assistance to members, and perhaps any who might be affected with their forward planning might take an early opportunity to discuss that with the respective leaders so that I can carry my discussions with them further.

HON MAX EVANS (North Metropolitan) [10.05 pm]: This is not an unexpected proposal but it is an unrealistic one. Considering the number of weeks that we have been sitting and the number of messages that have come from the other place, one wonders what has happened. I cannot see us getting through much business. The Government proposes an extra three sitting days with the new timetable. Even then we will probably need to attempt some all night sittings as a result of the lack of management by the Government in the other place. I do not know where all the legislation is; nothing has come through to the Council for weeks. Hon Derrick Tomlinson has been kept very busy but it seems a pity that we have not been able to deal with more legislation. What has happened to the management in the other House?

We consider that we make a worthy contribution to legislation; however, I see us ending up with the same diabolical situation of dealing with 20 Bills in one day. We have done that at the end of previous sessions; we have undertaken large amounts of business in the last three days of a session. I do not complain so much about the time factor -

Hon Fred McKenzie: The Government does not have control in the other place any more either.

Hon J.M. Berinson: We should also take account of the amount of time the Assembly allows for Opposition business.

Hon MAX EVANS: The legislation is not coming through. We have been locked into a situation. I am worried that the Government will try once again to force through legislation

in the last week. On one day in this place we handled a record 20 pieces of legislation. That is a shame. It is an insult to the public that legislation goes through in that way. People are often shocked to think that happens. They say that it is lucky that we get any decent legislation at all, the way it is rushed through. However, if that is to be the situation, so be it. We will wait to see what happens.

HON N.F. MOORE (Mining and Pastoral) [10.07 pm]: Last Wednesday I indicated to Leader of the House that I was prepared to debate the Mines Regulation Amendment Bill. We did not sit Wednesday evening. Anyone who does not know my intention should have read today's Notice Paper. I had intended to bring up the matter for debate today, and it could have been resolved today.

Hon J.M. Berinson: But it could not be done for the same reason that other Bills on the Notice Paper cannot be done. Other Bills are in a position where Opposition members are not ready for debate. I have explained to the member that Hon Mark Nevill will be in a position to debate the Mines Regulation Amendment Bill tomorrow; he was not in that position tonight. There is a mutual problem.

Hon N.F. MOORE: With respect, I mentioned this last week when we were anxious to move - that is, last Wednesday, six days ago - and if the Government is looking for business, here is a Bill with which the Opposition is anxious to proceed. In that six days we might have received a Government response to the Bill so that we could have debated it today.

Hon J.M. Berinson: There are some Bills that have been here for six weeks and members are not ready. We try to accommodate everyone.

The PRESIDENT: Order!

Hon N.F. MOORE: If we want to get into that argument, the people who prepare the Government's responses to our Bills are legion. Departments are full of people. When the Government brings in Bills we respond through the efforts of one person. The Leader of the House should not try to draw that comparison. He knows what I am talking about because he has been on this side of the House. We could have handled the Bill today or last Wednesday had the Government organised itself. I am responding to the Leader's worry that we do not have business to deal with tonight. I am pleased that he has given an undertaking to handle the Bill tomorrow. I will be happy to resolve the situation tomorrow if that is at all possible.

Adjournment Debate - Pardelup Prison Farm - Closure Concern

HON MURIEL PATTERSON (South West) [10.09 pm]: The House should not adjourn until I tell members of my concern about the Government's proposed closure of the Pardelup Prison Farm at Mt Barker. Far from shutting down that prison farm I propose that it be upgraded and extended as a vital part of the State's reform and rehabilitation. The Government's alleged reason for closing Pardelup is on the grounds of economy. However, never let it be said that I do not support thrift in Government, but is closing one-third of Western Australia's minimum security prisons at a time of rising concern at the level of crime in our community the way to go?

Pardelup is considerably more than just a prison in the midst of some rather attractive farmland. Pardelup is an incentive and a ray of hope for many inmates doing time behind the grey concrete walls of Casuarina Prison, Albany Regional Prison and Bunbury Regional Prison. For such men the prospect of a transfer to Pardelup is often the first tangible sign that society trusts and accepts them again and that they are on the path to a new start in life. Reform and rehabilitation are the principal tasks of any civilised prison, and by those standards Pardelup is an outstanding success.

Hon Mark Nevill: You don't believe that prison to be rehabilitate, do you?

Hon MURIEL PATTERSON: There is also the question of where the inmates will be sent. Will they be sent back to the hard-wall environment of a regular gaol? I wonder whether any serious thought has been given to the effect this will have on the visiting privileges of those inmates' families whose homes are down south? The effect of this additional strain and aggravation on already strained relationships has evidently been left out of the Government's calculations. Nor should we underestimate the effect this ill-considered action would have on the surrounding population of Mt Barker and districts for whom Pardelup provides not only jobs and commerce but is also a welcome local presence. When one remembers the

strong resistance by the residents of one city suburb - Murdoch I believe - when a juvenile remand centre was proposed in their locality, perhaps we could learn something from the harmonious relationship which has been built up over the years between Pardelup's inmates and the people of Mt Barker.

The Plantagenet Shire President, Peter Skinner, has already said that at a time when many communities oppose the placing of correction centres within their surrounds his council not only welcomes the Pardelup Prison Farm within its community but works in with the management to ensure community participation which is so necessary for rehabilitation. This opinion is borne out by the fact that Pardelup inmates are actively involved with the volunteer fire brigade, the Plantagenet Historical Society, the local shire, the Returned Services League club, the girl guides, the scouts, church groups, the agricultural society, the turf club, senior citizens' clubs and the Mt Barker District Hospital, as well as being on call to help age pensioners throughout the community.

Pardelup Prison Farm must not be closed. Sheer humanity demands that this not be allowed to happen. We on this side of the House know that prisons such as Pardelup have the proven ability to reform and redeem if only they are allowed to get on with their job. For those members who have never visited Pardelup I would like to tell them that security consists of an ordinary farm fence around the property. The prisoners are placed there on trust and it is a privilege to be sent to Pardelup. I have yet to meet a prisoner who has been there and has not appreciated this trust. Accordingly, our task is to see that the prisoners get the means and the encouragement to continue their rehabilitation and that, far from shutting down Pardelup, we must now urgently investigate ways in which we can extend the benefits of the Western Australian prison farm system.

The cost to maintain Pardelup is $1 million per annum, therefore cost cannot be the issue when we remember that over $14 million has been spent on the retention of the old, derelict Swan Brewery. That would be 14 years of Pardelup's budget.

Hon Reg Davies: Good point.

Hon MURIEL PATTERSON: One cannot help wondering whether some very lucrative deal has been done on the future sale of this valuable landholding. I do not know why it has been decided to close Pardelup. This prison is a viable rehabilitation halfway house in the country, well accepted by the community. It is of economic benefit to the community. The staff number 25, and their families are assimilated into the Mt Barker community. The revenue gained from that is substantial; it helps maintain many businesses and services such as schools, medical centres and many others. I urge the Leader of the House to take our concerns to heart. I urge that the status quo remain and that Pardelup remain a shining light to all people who have suffered punishment for their wrongdoings.

HON DERRICK TOMLINSON (East Metropolitan) [10.17 pm]: I add my support to the plea just made by Hon Muriel Patterson. I was privileged in the last few weeks to meet a young man who was involved in a crime of a very serious magnitude which was given a great deal of publicity at the time of its occurrence and in the time since. The young man involved had a criminal record dating back to the time he was 10. He was what we would call a hard core offender. He described his experience in the Fremantle Prison; the despair he felt in that prison and his attempts to commit suicide. He also told me of the opportunity he was given - for reasons he himself cannot explain - for rehabilitation. At the time of the transfer of prisoners from Fremantle to Casuarina he quite inexplicably was transferred to Pardelup Prison Farm.

Hon J.M. Berinson: Do you have any idea how much of his sentence was served?

Hon DERRICK TOMLINSON: I do not know about that. It is irrelevant to what I want to argue.

Hon J.M. Berinson: I assure you it is not irrelevant.

Hon DERRICK TOMLINSON: It is irrelevant to what I want to argue. It is not irrelevant to why he was transferred to Pardelup. What is relevant is that, probably for legitimate reasons, he went to Pardelup from a place where he knew nothing but despair, where he was at the point of suicide. As a consequence of going to Pardelup he experienced a change of attitude. He explained that the change of attitude was linked with the shift from the regimen of the incarceration at Fremantle Prison to the type of incarceration he knew in that minimum

security prison. As a consequence of that change and because he took a look at his own life and asked himself where he was going, he made what could very well prove to be a very profound decision. That was, when he got out he did not want to get into trouble again. He wanted to change his ways. Whether he will be a reformed person for the rest of his life and whether he will truly achieve what he now is determined to achieve - that is, to be accepted as a decent citizen - is something that will be proved in the future. He told me that the most significant thing to happen in his life was being moved to that prison. Before a decision is made to close Pardelup on purely economic grounds, a study must be made of the reoffending rate of the category of prisoners at Pardelup because all research about incarceration shows that imprisonment does not have a strong relationship to rehabilitation. On the contrary, imprisonment has a strong relationship to reoffending. The earlier and the longer a person is imprisoned the more institutionalised the individual becomes and the stronger is the probability that he or she will reoffend. What may result from this anecdotal evidence of prisons such as Pardelup is that there is a reversal of that; that is, there is some rehabilitative value in Pardelup. Therefore, to close an institution like Pardelup on the basis of financial considerations alone may be false economics.

Hon J.M. Berinson: That is not the reason.

Hon DERRICK TOMLINSON: That is good. I stress that the false economy of saving money should not be the single factor. The Minister for Corrective Services should be examining whether the type of imprisonment and the type of incarceration which is available to a whole category of offenders who are there because they can be trusted in a minimum security prison and who can respond to that position of trust might be of positive value. I support the plea made by Hon Muriel Patterson that the fate of Pardelup be based on considerations other than mere financial savings.

HON D.J. WORDSWORTH (Agricultural) [10.22 pm]: I add my contribution to this matter as I represented the Mt Barker area for some years. I will not say that I was privileged to go to Pardelup rather than another prison but I was certainly a visitor on numerous occasions. On my first visit I was accompanied by Mr Campbell, the Director of the Department of Corrections at the time. He asked whether I had been to a prison before and said that if I had a couple of drinks and happened to hit someone on the way there I would not get out of Pardelup as quickly as I would that night. We were attending a meeting of Apex on that occasion and were visiting selected prisoners who were being rehabilitated. It was a great setup and it would be sad to see that disappear from our system. Obviously, as has been mentioned earlier, it is a prime place. If a member of Parliament should end up in prison he would like to find himself at Pardelup and wish that it had not been closed. I agree with other members that it is a fairly humane institution and one which should be retained.

HON J.M. BERINSON (North Metropolitan - Minister for Corrective Services) [10.23 pm]: I respond only briefly to the comments about Pardelup prison farm. I stress in the first place, as I have in response to a number of questions recently, that no decision to close Pardelup has been made. The status of the proposal is that I have recommended it should be closed, but no final decision will be made except after consideration by the Premier and then by Cabinet with the benefit of all submissions that have been made on the subject. That will include the comments that have been made tonight and the submissions by the Prison Officers Union and the Shire of Pardelup representing the local community. The Premier and I will be holding another meeting with shire representatives later this week and unless a firm Government decision is made the question will remain open. I take seriously a number of matters that have been put to the House tonight and, in many respects, those issues reflect the concerns which have already been put to me. However, I urge members to keep the general question in perspective and stress that the proposal to close Pardelup is not based on financial considerations alone but also on the basis of a very firm resolve by the Government to reduce the rate of imprisonment.

In recent years there has been general cross-party support for reducing the rate of imprisonment. I have welcomed the assistance of the Opposition in implementing a number of programs for that purpose. In practical terms such reduction in the rate of imprisonment as can be achieved is almost solely concentrated on the lesser offenders. In general terms that means offenders who are held in minimum security prisons.

In looking to the closure of Pardelup, the Government is not - if I can correct Hon Muriel

Patterson - looking to the closure of one-third of the minimum security beds in the south west. It is true that apart from the special circumstances of Wyndham we have only three minimum security institutions in the metropolitan area and points south. Pardelup, however, is the smallest of them. While it is true that it represents one-third of the prison farms, it represents only about one-sixth of the capacity of those three prisons and the position of Pardelup has been concentrated upon precisely because it is the smallest.

Hon P.G. Pendal: It is the smallest and one of the most efficient. The morale of its prison officers is the highest in all of Western Australia.

Hon J.M. BERINSON: That is a difficult judgment to make and highly subjective. All members would welcome a demonstrable rehabilitation effect out of prisons. Hon Derrick Tomlinson has put that into perspective. The prospects of rehabilitation are limited anywhere in the prison system, but they are particularly limited among the great majority of prisoners in minimum security prisons. The case Hon Derrick Tomlinson referred to would no doubt relate to the last phase of a longer term prisoner. That is part of the general resocialisation program in such cases. The problem with minimum security is that on the whole it caters for the 60 per cent of all prisoners who are admitted for less than three months, and no-one would be rehabilitated in that time. The figure is 75 per cent for less than six months. That is the general problem at which we are looking.

Members should keep in mind that this is not a purely economic measure. Its consideration has certainly come up in the Budget context but it is directed mainly at the Government's continuing commitment to reduce the rate of imprisonment of lesser offenders. No decision has been made and all the matters that have been put in the discussion tonight will go into the general consideration of the matter.

Question put and passed.

House adjourned at 10.30 pm

QUESTIONS ON NOTICE

STATE ENERGY COMMISSION OF WESTERN AUSTRALIA - MUJA POWER STATION AND DEEP COALMINE
Employment Statistics - Collie Power Station

130. Hon REG DAVIES to the Attorney General representing the Minister for Fuel and Energy:

(1) With regard to the State Energy Commission power station at Muja and the deep coalmine -

(a) what are the present employment figures in operations;

(b) what will be the employment figures for the proposed privately owned, highly automated, power station and the open cut coalmine; and

(c) what is the employment loss figure for the down scaling of the Muja power station and the transfer of operations from a deep mine to an open cut coalmine?

(2) Is it correct that the State Energy Commission has bought a 100 MW gas turbine for Pinjar that will not be operating, even in peaks, because of over capacity?

(3) When will the gas turbine be used?

(4) If there is insufficient load to run this turbine is it possible to defer the decision on the power station for at least 18 months to conduct a thorough investigation into Western Australia's energy options, taking into account co-generation, peak load avoidance, energy conservation and alternative technologies?

(5) Is it correct that the State Energy Commission now predicts a three per cent load growth into the mid 1990's instead of the five per cent load growth on which the power station decision was based?

(6) Is the Minister aware that it is law in about half of the States of America that all new supply contracts have a least cost planning study?

(7) Has the State Energy Commission considered least cost planning?

(8) Has the State Energy Commission made any estimates on the potential energy and economic savings to the State?

(9) If yes, how much are they?

(10) Can the Minister confirm that the figure of 270 MW, as stated by State Energy Commission of Western Australia's Manager of Demand Management, can be saved by peak load avoidance and co-generation by the end of the decade?

(11) If no, what is State Energy Commission of Western Australia's demand management's estimates?

(12) If yes, is it correct that one of the 300MW units of the new power station will not be needed by the turn of the century?

(13) As State Energy Commission of Western Australia has announced a policy of encouraging co-generation -

(a) what are the predictions of the low and the high expected supply from co-generation;

(b) why is State Energy Commission of Western Australia only offering an average of 5¢/kW hour for co-generation when the cost of the proposed Collie power station is 6.5¢/kW hour;

(c) does this mean Western Australia will be paying an extra 1.5¢/kW hour by buying Collie power and not more environmentally friendly co-generation power; and

(d) is the Minister aware that fuel is used two to three times more efficiently in co-generation than in conventional power generation?

(14) Is it correct that the Government is proposing to commit the State and State Energy Commission of Western Australia to purchasing electricity from the Collie power station at about 6.5¢/unit for the first 15 years of the stations operations?

(15) Will this cause higher electricity prices for Western Australian consumers?

(16) How will the State attract industry development over the next 15 years at an increased power cost of 6.5¢/unit?

(17) What subsidies will the Government offer large demand customers who are currently paying less than the average 3.5¢/unit when the new power station is built?

(18) Who will bear the burden of these subsidies?

(19) If the load growth over the first 15 years of the power stations life is less than expected what affect will this have on power costs?

(20) As the Minister stated that the project will only borrow in Australian dollars and that investing banks will manage the exchange rate difference-

(a) is this why the cost of the power station is at the unusually high cost of $2 billion;

(b) if the exchange rate does not vary greatly over the next 15 years how much will the banks profit; and

(c) what proportion of the power station price of $2 billion is covering the financiers' foreign exchange risk?

(21) Would smaller load increments, made possible by using the gas option, forestall the need for an immediate major commitment to this power station and for how long?

(22) If the Collie power station is built -

(a) what will be the value, including interest charges, of natural gas paid for by State Energy Commission of Western Australia, but left in the ground by year 2000;

(b) what will be the value of coal purchased by State Energy Commission of Western Australia, under existing contracts, and subsequently stockpiled due to reduced loading of the State Energy Commission of Western Australia plant;

(c) what are the corresponding values of stockpiled gas and coal if the alternative gas fuelled option recommended by the Harman committee was followed; and

(d) does the gas fuelled option allow all of the accumulated gas to be utilised?

Hon J.M. BERINSON replied:

The Minister for Fuel and Energy has provided the following reply -

(1) (a) Muja power station currently employs 570. The coal industry employs about 1 250 with little over 300 employed in the deep mining.

(b) Mitsubishi Transfield joint venture has estimated that approximately 150 staff will be required for the proposed private power station; this figure does not include maintenance employees of service contractors. Western Collieries Limited has estimated that 250 persons will be employed in the new open cut coalmine.

(c) Nil. Muja power station will retain an important role in SECWA's electricity generation system. Inter-mine transfer numbers are unknown.

(2) No.

(3) From the time of its commissioning scheduled for 1993.

(4) The capacity provided by this gas turbine is required.

(5) The current long term predictions for load growth are similar to those that applied when the decision to pursue the Collie project was taken, but reflect lower energy sales in the near term due to the current recession.

(6) The Minister is aware that least cost planning is a part of the regulatory process in certain areas of the United States.

(7) Yes.

(8)-(9)
Questions unclear.

(10)-(11)
The figure provided was indicative only and is not the basis of SECWA's planning. The potential for co-generation will depend upon the development of industry with a requirement for low temperature heat or available waste heat. An assessment of the total potential for demand management is continuing.

(12) Demand management is taken into account in the current installation program.

(13) (a) See answer to question (10);

(b)-(c)
the co-generation tariff is based on SECWA's long term marginal cost. The cost of power from the Collie power station is currently subject to negotiation;

(d) the Minister is aware that co-generation cycle efficiency can be over twice that of conventional thermal power generating plant.

(14) SECWA's contractual arrangements for the purchase of electricity are confidential.

(15) No.

(16) SECWA aims to reduce the real cost of power by at least 25 per cent in real terms by the year 2000.

(17)-(18)
Questions unclear.

(19) Power costs are not determined primarily by load growth. Costs in real terms could be higher or lower depending on many other factors.

(20) (a) No;

(b)-(c)
intermediation costs are being borne by the banks.

(21) The coal fired power station is favoured because it immediately addresses problems associated with underlying costs and efficiencies as well as providing the State with secure, long term energy supplies at the lowest possible tariff. Assuming the availability of gas at an attractive price, increments of gas generation can be added at any time.

(22) (a) The value is dependant on future gas prices. Details of SECWA's gas prepayments are provided in its annual report;

(b)-(c)
the value is determined by coal price. Future stockpiling is expected to be minimal. Coal prices are confidential;

(d) yes, as does the current development plan.

SCHOOLS - LAVERTON
Air-conditioning Concern

145. Hon P.H. LOCKYER to the Minister for Education:

(1) Has the Government received advice of concern by the parents and citizens at the Laverton school with regard to problems with the air-conditioning at the school?

(2) If yes, what steps are the Government taking to alleviate the concern being expressed?

Hon KAY HALLAHAN replied:

(1) Yes.

(2) Repairs were carried out by the Building Management Authority on 22 February 1992. The units are now functioning satisfactorily. The units have been listed for replacement in the 1992-93 maintenance program.

SCHOOLS - PRIMARY SCHOOLS
Establishment - Student Numbers Requirement

154. Hon P.H. LOCKYER to the Minister for Education:

(1) What stable number of students is regarded by Government as appropriate to supply teaching staff and teaching facilities?

(2) Over what period of time is this number of students needed for the provision of these basic services?

Hon KAY HALLAHAN replied:

(1) Education Regulations 159 and 180(1) list the criteria under which a primary or a secondary school may be established -

159. (1) Subject to subregulation (2), a full-time government primary school may be established in any locality where in the opinion of the Minister

(a) the permanence of settlement is sufficiently assured and there is a reasonable prospect of a continued average attendance of not less than 10 children between the ages of 6 years and 14 years; or

(b) there is a reasonable prospect of an average attendance of 8 children, a suitable school room is available, and there is no other government school within 5 kilometres of the locality; or

(c) there is a reasonable prospect of an average attendance of 8 children within 12 months, the school is in a remote area where settlement is in progress, and a suitable school room is made available by the parents.

(2) A primary school shall not be established in a locality referred to in subregulation (1)(a), which locality is within 5 kilometres of an existing government primary school, if the average attendance of the proposed school is likely to be less than 20 pupils.

(3) (a) Where a school is established pursuant to subregulation (1)(a), the department shall provide the necessary buildings, furniture and equipment for that school.

(b) Where a school is established pursuant to subregulation (1)(b) or (c), the department shall provide the necessary furniture and equipment for that school.

(4) A primary school established in a locality referred to in subregulation (1)(b) or (c) -

(a) shall have not less than 1.1 square metres of floor space for each pupil, a boarded floor and adequate lighting and ventilation;

(b) shall be equipped with satisfactory sanitary arrangements and a suitable and adequate supply of drinking water; and

(c) shall provide suitable accommodation for the teacher at a rental approved by the department.

180. (1) The Minister may establish a high or senior high school in any locality where there is a reasonable prospect of an average attendance of not less than 150 children in secondary classes Years 8, 9 and 10.

As the cost of establishing a new school, particularly in remote communities and where teacher housing is involved, is very high, a number of other criteria are also considered. These include availability of service and utilities; the permanence of the settlement; the availability of a town plan; the history of previous settlement - if relevant; provision of infrastructure by other groups and agencies; a firm desire on the part of the parents concerned for Government school education and the availability of other educational support services such as Distance Education.

(2) The time frame for the establishment of a school depends upon resolution of the factors listed above and the availability of funds to construct the facilities.

MENTAL HEALTH ACT - UNPROCLAIMED LEGISLATION
Repealing Legislation Sponsorship

219. Hon PETER FOSS to the Minister for Education representing the Minister for Health:

In view of the fact that the Mental Health Act 1981 will not be proclaimed, will the Government sponsor repealing legislation to enable the Parliament to deal with the matter?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

No. However, the Government does intend to introduce new mental health legislation into Parliament as soon as possible to replace the Mental Health Act 1962. This legislation will automatically repeal previous Acts.

ENERGY POLICY AND PLANNING BUREAU - COST STUDIES
Heat Sink of Bitumen Roads, Pruning Street Trees, Repairs to Powerlines Damaged by Trees

235. Hon PETER FOSS to the Leader of the House representing the Minister for Fuel and Energy:

(1) Is the Energy Policy and Planning Bureau aware of United States studies as to the cost of extra cooling made necessary by the heat sink effect of bitumen roads?

(2) Has the Energy Policy and Planning Bureau made a study as to the cost of -

(a) pruning street trees; and

(b) repairing damage caused by interference in powerlines by trees?

(3) If yes, what are the results of that study?

(4) Has the Energy Policy and Planning Bureau made a study as to the savings to be obtained by having underground power including costs from heat sink,

pruning and interference with trees and any other savings?

(5) If yes, what is the result of the study?

Hon J.M. BERINSON replied:

The Minister for Fuel and Energy has provided the following reply -

(1) No.

(2) No. This is essentially an operational matter. See answer to question 165.

(3) Not applicable.

(4)-(5) No, but see answer to question 165. The requirement for underground power in new residential subdivisions arises from aesthetic as well as cost and reliability considerations.

SHEEP LICE ERADICATION FUND ACT - LIMITED LIFE OR SUNSET CLAUSE

242. Hon D.J. WORDSWORTH to the Minister for Police representing the Minister for Agriculture:

(1) Has the Sheep Lice Eradication Act a limited life or a sunset clause?

(2) If so, when do the provisions of the Act expire?

(3) Is there a requirement that a review take place?

(4) Has the Minister instigated a review?

(5) Is the Minister intending to introduce a replacement Bill?

(6) If so, will it be introduced this session?

(7) If so, will the recommendations of any review be made available and public comment be called for from industry before the replacement Bill is introduced?

(8) If the Parliament rises before consideration of the Bill is completed, what effect, if any, will it have on present activities to control lice in this State?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response -

(1) Yes.

(2) At the end of the 1991-92 financial year.

(3) No.

(4) Yes. A review by an independent review panel under the chairmanship of Professor Ralph Swan of Murdoch University has been carried out. Professor Swan presented the review panel's report on Thursday, 23 April 1992.

(5) Yes.

(6) It is my intention to introduce it this session.

(7) The review panel's report will be made available. However, it is not considered necessary to call for public comment as this was done comprehensively during the review process.

(8) Budget predictions indicate that the Sheep Lice Eradication Fund Act 1987 funds will become depleted during 1992-93.

THIRD PARTY INSURANCE - INJURY CLAIMS

Proof of Driver's Negligence Requirement - "No Fault" Scheme Proposal

247. Hon GEORGE CASH to the Leader of the House representing the Minister assisting the Treasurer:

(1) Is the Minister aware that the provisions of the third party insurance system require that negligence against the driver of a motor vehicle must be proved before any injury claim can succeed?

(2) Has the Government considered a "no fault" scheme which would compensate persons injured in traffic accidents irrespective of the negligence of a driver, and if so, does the Government intend to introduce such legislation, and if not, what are the reasons for not proceeding with a "no fault" scheme in this manner?

(3) Is the Minister able to indicate the likely increase in cost to motorists should a "no fault" scheme be introduced in Western Australia?

Hon J.M. BERINSON replied:

The Minister assisting the Treasurer has provided the following reply -

(1) Yes.

(2) Yes, the Government has given consideration to such a scheme several times. It has not proceeded with such a scheme because the present scheme provides unlimited cover to people injured in motor vehicle accidents which result from negligent drivers. No fault schemes have caps and thresholds on compensation paid to victims.

(3) The costing of a no fault scheme is dependant on the caps, thresholds and limitations inherent in the scheme. Until such matters have been determined it is not possible to accurately cost such a scheme.

SOBERING UP CENTRES - SITES
Funding

249. Hon GEORGE CASH to the Minister for Education representing the Minister for Health:

During debate on the Acts Amendment (Detention of Drunken Persons) Bill some years ago, the Government advised that detoxification centres would be established for the treatment of drunken persons. Can the Minister advise where detoxification centres have been established around the State and the amount of funding set aside in each of the past three Budgets for the purpose of establishing detoxification centres?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

Sobering up centres have been established in Perth and South Hedland. A sobering up centre is currently under construction in Halls Creek and is expected to commence operation in September 1992. A sobering up centre is in the process of being established in Fitzroy Crossing. The following expenditure has occurred during the past three years to establish and operate sobering up centres -

	1989-90	1990-91	1991-92	
Establishment and operating costs	$143 000	$421 271	$446 128	(to date)
Capital costs	Nil	$242 000	$558 000	
Annual total	$143 000	$663 271	$1 004 128	(to date)

SUGAR INDUSTRY - ORD RIVER ESTABLISHMENT PLANS

254. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Agriculture:

What steps are being taken to establish a sugar industry on the Ord?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response -

(1) The Department of Agriculture is undertaking a program of 'bulking-up' nursery stocks of sugar cane at the Frank Wise Institute of Tropical Agricultural Research.

(2) Some cane has been released to the Ord River District Co-operative to

member growers to plant and for a micro-mill to be trialled during 1992.

(3) A working group is reassessing and updating information about the Ord River irrigation area, particularly the outlay costs related to the establishment of a future large scale sugar industry there.

(4) Updated information will be used to review submissions from a number of national and international investors who have expressed interest in the establishment of a major sugar industry on the Ord.

STATE ENERGY COMMISSION OF WESTERN AUSTRALIA - LOMBADINA AND ONE ARM POINT POWER SUPPLY
Coral Bay Power Supply Responsibility

259. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Fuel and Energy:

(1) Does State Energy Commission of Western Australia supply power to the communities of Lombadina and One Arm Point?

(2) If so, why are these communities different to Coral Bay?

(3) If Coral Bay was an Aboriginal community would State Energy Commission of Western Australia take responsibility for the supply of power?

Hon J.M. BERINSON replied:

The Minister for Fuel and Energy has provided the following reply -

(1)-(2) No.

(3) No. Funds for power supply to Aboriginal communities are provided by the Federal Government.

WATER AUTHORITY OF WESTERN AUSTRALIA - LOMBADINA AND ONE ARM POINT WATER SUPPLY
Responsibility

260. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Water Resources:

Is the Western Australian Water Authority responsible for the supply of water to the Kimberley communities of Lombadina and One Arm Point?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response -

The Water Authority of Western Australia carries out regular maintenance of the water supply scheme at Lombadina on a contractual basis with funds provided by AAPA. At One Arm Point, only emergency maintenance is carried out by the authority. ATSIC provides these funds.

ENVIRONMENTAL PROTECTION AUTHORITY - FIRE, EFFLUENT PONDS, LINLEY VALLEY ROAD, WOOROLOO
Monitor

265. Hon BARRY HOUSE to the Minister for Education representing the Minister for the Environment:

(1) Did the Environmental Protection Authority monitor a fire started about noon on 5 March 1992 on effluent ponds in Linley Valley Road, Wooroloo?

(2) If so, were any hazardous fumes, or toxic wastes, produced by this fire?

(3) If not, why was this fire not monitored?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) No monitoring of the smoke produced by the fire. The EPA attended

and ensured steps were taken to extinguish the fire.

(2) No.

(3) Fire of nuisance value only.

WILDERNESS SOCIETY, THE - KIMBERLEY
"World Class Aboriginal Wilderness National Park" Proposal

267. Hon P.H. LOCKYER to the Minister for Education representing the Minister for the Environment:

(1) Is the Government aware of a proposal by the Wilderness Society to turn approximately eight million hectares of the Kimberley into a "World Class Aboriginal Wilderness National Park"?

(2) If so, does the Government support their claim?

(3) Is the Government aware of the devastating effect such a move would have on the already devastated pastoral industry in the Kimberley?

(4) Will the Government support the very important pastoral industry by advising the Wilderness Society that its proposal is not acceptable?

(5) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1)-(5)

The Minister has received a copy of the Wilderness Society proposal and is currently considering it. He has indicated to the Wilderness Society that the proposal will have to be considered in the light of the needs of industries in the area, including the pastoral industry.

NULLARBOR PLAIN - WORLD HERITAGE LISTING
Opposition Representatives Meeting

268. Hon P.H. LOCKYER to the Minister for Education representing the Minister for the Environment:

(1) Has the Government met with any representatives of people who are opposed to World Heritage listing of the Nullarbor?

(2) If so, did this group represent the pastoralists?

(3) Has the Minister met with people from the area on this subject?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1)-(2)

This question is too general to give a specific answer. However, I can indicate that the Minister for the Environment has not attended any formal meetings organised to discuss this issue.

(3) See (1). No decision has been made as yet on whether the Nullarbor area meets World Heritage listing criteria. If it is decided that the area meets those criteria and a nomination could be prepared, there will be comprehensive consultation with all interested parties.

NULLARBOR PLAIN - WORLD HERITAGE LISTING
Nomination Proposal Status

271. Hon P.G. PENDAL to the Minister for Education representing the Minister for the Environment:

(1) What is the current status of the proposal to nominate part of the Nullarbor Plain for the World Heritage list?

(2) Will there be an opportunity for public comment on any proposal to nominate the Nullarbor for World Heritage prior to the nomination being made?

(3) Will the bilateral management agreement for Shark Bay be published before the Nullarbor nomination is made?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) The Commonwealth is finalising the gathering of information to determine whether the Nullarbor meets World Heritage listing criteria.

(2) Yes.

(3) The Shark Bay agreement was executed in October 1990.

APPLE SCAB - STONEVILLE RESEARCH STATION
Other Research Stations or Sites

273. Hon MURRAY MONTGOMERY to the Minister for Police representing the Minister for Agriculture:

(1) What is the estimated length of time that the apple scab infection has been in the Stoneville Research Station?

(2) How many other research stations or sites have been affected and where are they?

(3) Have any other stocks of apple trees emanating from the Agriculture department been infected with apple scab?

(4) If yes to (3), where did they emanate from and were they the primary source of infection at those locations?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response -

(1) Pathological evidence suggests apple scab has been present since the summer of 1990-91.

(2) No other research stations. Apple scab infections have been found this spring/summer in a backyard tree in Manjimup and in one orchard in Brookhampton and Dwellingup.

(3) Some of the trees found to be infected with apple scab were grown from material originally supplied by the Department of Agriculture.

(4) This apple planting material has been supplied by the Stoneville and Manjimup research stations. Apple scab has never been detected on the Manjimup research station. The station has undergone several rigorous inspections since apple scab was first isolated in Western Australia. Apple stock was widely distributed from Stoneville research station to south west and hills orchards and nurseries. Apple scab infections have occurred on few of the many properties receiving apple stock from Stoneville research station. Stoneville research station was inspected twice for apple scab before the current outbreak was first noticed. No previous outbreaks were observed. The outbreak on Stoneville research station is considered to have occurred after apple scab was first detected in the south west. There is no evidence that material originating directly from the Department of Agriculture has been the primary source of infection.

QUESTIONS WITHOUT NOTICE

LAND TAX - FILE No 8514089
Status of Summons

146. Hon GEORGE CASH to the Leader of the House representing the Treasurer:

Further to question on notice 127 on Thursday, 2 April 1992 -

(1) What is the status of the summons?

(2) Has the Commissioner of State Taxation ascertained whether the land subject of the summons is owned by a Government department and while not leased by the department is not subject to land tax?

(3) Why was there a delay in requesting the Valuer General to provide a valuation on the property?

Hon J.M. BERINSON replied:

I thank the Leader of the Opposition for some notice of this question. The Treasurer has provided the following reply -

(1) The defendant has lodged a notice of intention to defend the summons in the Local Court.

(2) Yes, the land is owned by a Government department. It is not clear what the second part of the question means.

I interpolate on the Minister's written response to indicate that the copy of the question which she is responding to apparently had a misprint in that the word "leased" was recorded as "listed". It is for that reason I believe that the second part of the question has not been answered substantively.

(3) Because the need for the valuation was identified only as the result of an audit of past years' valuations which was carried out during 1991.

GRANT, MR - CORRECTIVE SERVICES, DEPARTMENT OF
Executive Director Appointment - Professional Background

147. Hon GEORGE CASH to the Minister for Corrective Services:

Has a Mr Grant been appointed Executive Director of the Department of Corrective Services in Western Australia, and if so, can the Minister indicate Mr Grant's professional background and those attributes that may be superior to persons currently working within the Department of Corrective Services?

Hon J.M. BERINSON replied:

I issued a statement to that effect yesterday, but I do not believe that it attracted media attention. I have not met Mr Grant and cannot express any personal view on the attributes on which the Leader of the Opposition has asked me to comment. I can say, however, that Mr Grant was one of a short list of three applicants which included senior local public servants and that the selection panel, while commending all the applicants, expressed the unanimous view that Mr Grant was the preferred candidate and so recommended his appointment. The Public Service Commissioner supported that recommendation and the Government accepted that advice. Without notice, I am unable to refer in detail to Mr Grant's professional background other than to say that it extends over a considerable number of years and that his early service in related fields was in the non-custodial area of corrective services. In recent years - and I say this subject to correction - he has occupied either the position of director or deputy director of the equivalent of the Department of Corrective Services in Victoria and the position which would equate to our position of executive director in the New South Wales Department of Corrective Services. He comes, therefore, with a very considerable background in corrective services related to his own experience in the field. Added to that is a considerable background at the highest level of administration in those two States. I repeat that I am not sure about his number of years of experience or about the various positions that he has filled. For that matter, I am not all that certain about the titles of the equivalent departments in Victoria or New South Wales. However, the background that I have given is close to the mark and I believe that the Department of Corrective Services can look forward to a continuation of the very constructive moves in which it has been engaged over recent years in a very difficult area of public administration.

LIBRARY BOARD OF WESTERN AUSTRALIA - NEW BOOK STOCK
15 Per Cent to Seven Per Cent Reduction

148. Hon P.G. PENDAL to the Minister for The Arts:

I refer the Minister to the 1982 decision of the Library Board of Western Australia to set 15 per cent as the optimum level for new library stock input into the Western Australian library system and I ask -

(1) Why has the Minister allowed new stock input to drop from 15 per cent down to seven per cent this year?

(2) Will she immediately move to restore the stock input to the 15 per cent level introduced by the previous Government in 1982?

Hon KAY HALLAHAN replied:

(1)-(2)

We have had this question asked about three different ways in this House in recent times. I again make it clear that the Library Board of Western Australia had a reduction in its budget of 1.25 per cent last financial year. New book stocks have reduced as a result of that. I have explained before that that was as a result of inflation and the international exchange rate and that, overall, the purchase of new books certainly has been reduced. However, the Alexander Library has made available titles to the library system over and above what has previously been the case. In fact, more titles are circulating this year than were circulated last year. Although some people are concerned about the new library book vote, I have given them an undertaking that, as the economy improves and the Government's capacity to reinstate a higher level of funding for the book vote improves, additional funding will be provided. I do not confirm Mr Pendal's figures, but there is no way that his vision, fantasy or dream of increasing the book vote by eight per cent - which is a request for it to be doubled - would be possible in the forthcoming Budget.

Hon P.G. Pendal: Shame!

Hon KAY HALLAHAN: However, I have said to librarians that as soon as possible funding will be restored.

KWINANA INTEGRATED EMERGENCY SYSTEM REPORT - PUBLIC RELEASE REFUSAL
Reason

149. Hon P.G. PENDAL to the Minister for Emergency Services:

I refer to answers last week that the Minister gave for his refusal to release the Kwinana integrated emergency system report. Is the reason for his refusal to release that report based on his concern that the community will reach the conclusion that the potential for a major catastrophe on the Kwinana strip is seen as a very real prospect within that report?

Hon GRAHAM EDWARDS replied:

No. I refer the member to the answer I gave last week about the reason I am adopting this course of action. I also refer him to his own question when he stated that he had spoken to the journalist involved and that she was insistent that she was right.

Hon P.G. Pendal: You said that the public were wrong.

Hon GRAHAM EDWARDS: I spoke to the journalist and the member did not talk to her. All he did was get up in this House and reinforce his view that I had been inconsistent. I spoke with that journalist because I was concerned about making sure that I was right in my answer and because I put some weight and value in the truth. I recommend that the member does the same.

BRAILLE AND TALKING BOOK LIBRARY - ASSOCIATION FOR THE BLIND OF WESTERN AUSTRALIA (INC)
Government Funding

150. Hon MARGARET McALEER to the Minister for The Arts:

Is the Minister prepared to commit funds from the 1991-92 Budget to implement the recommendations of the review committee she established to investigate the level of funding for the Braille and Talking Book Library of the Association for the Blind of Western Australia (Inc)?

Hon KAY HALLAHAN replied:

I answered this question last week, but will answer it again. At that time I said that the work of the committee was available and that I would be studying it with a view to implementing its recommendations in the next financial year. If there are other ways that resources can be made available before that time we will examine them. I answered that question asked by another member only last week, so I can only repeat what I said on that occasion.

KWINANA INTEGRATED EMERGENCY SYSTEM REPORT - PUBLIC RELEASE REFUSAL
Journalist's Name

151. Hon P.G. PENDAL to the Minister for Emergency Services:

Will the Minister tell the House the name of the journalist he spoke to from the *Weekend Courier* whom he claims I did not speak to?

Hon GRAHAM EDWARDS replied:

The member quoted from an article written by that journalist. If the member has a problem in the community he should sort it out.

Hon P.G. Pendal interjected.

The PRESIDENT: Order! Members should not argue across the Chamber.

JUVENILE OFFENDERS - DETENTION CENTRES
Renovations or New Buildings Construction

152. Hon J.N. CALDWELL to the Minister for Corrective Services:

Given that the serious repeat offender legislation has the potential to commit more offenders, especially juveniles, to institutions, is the Government anticipating any extensions or renovations to existing buildings, or the building of any new ones?

Hon J.M. BERINSON replied:

The question of the detention of juvenile offenders is dealt with by the Department for Community Services. Therefore, I do not have that information and can only suggest the member list that question on notice for the responsible Minister.

PERSONAL EXPLANATION - BY HON P.G. PENDAL

Kwinana Integrated Emergency System Report - Misrepresentation

Hon P.G. PENDAL: I claim to have been misrepresented. On about Wednesday of last week the journalist from Rockingham's *Weekend Courier* to whom I referred and upon whose information I based a question in this House on 30 April telephoned me and referred me to what she regarded as the outrageous remark by the Minister for Emergency Services that he refused to release the report on the Kwinana integrated emergency management system on the grounds that the public would not understand it. I make it clear that a call came to me from that journalist and that therefore I have been misrepresented by the Minister who challenged the veracity of my remark that I had spoken to a journalist on that newspaper.

Hon P.G. Pendal interjected.

Hon Graham Edwards: Don't threaten me.

The PRESIDENT: Order! If members want to hold a private discussion they should do it in the corridor, because they cannot do it in this House.