

Legislative Council

Tuesday, 28 March 1995

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

MOTION - COUNTRY HOSPITALS AND HEALTH SERVICES

Notice of Motion No 10, Amendment

THE PRESIDENT: Last Thursday, as it was opening day, I decided not to raise the matter with the member who gave notice of motion No 10 at that time. Now that I have read the motion as printed, my initial opinion holds; namely, that the first part of the motion is frivolous and factually incorrect. The appointment of Ministers and the allocation of portfolios is a matter for the Premier and the Governor, not a political party. Secondly, Ministers are all of equal rank. It is not correct to refer in that context to promotions or demotions. I therefore amend the motion so that it will read -

That this House calls on the current Minister for Health to restore country hospitals and country health services to the high levels of support enjoyed under the previous Labor Government.

Hon John Halden: What happened to the Bill of Rights and freedom of speech?

The **PRESIDENT:** When the honourable member rises to speak, he has that freedom of speech, but in respect of the form in which this motion appears before the House he does not have that freedom.

PETITION - STATE SCHOOL TEACHERS UNION, INDUSTRIAL DISPUTE

The following petition bearing the signatures of 324 persons was presented by Hon N.F. Moore (Minister for Education) -

To: The Honourable The President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned members of the public respectfully ask the members of the Legislative Council:

1. To take in consideration the amount of support and interest shown by Karratha Senior High School students, for extra-curricular activities such as Country Week.
2. To try their best and utilise all their efforts in a reconciliation between the Teachers Union and the State Government, on behalf of the undersigned.
3. That the matters between the Teachers Union and the Government be resolved so that the students will not continue to be affected by this dispute, and therefore so the students can regain and benefit from their regular teaching and recreational based activities.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 215.]

PETITION - SEAGRASS MEADOWS, COCKBURN SOUND-OWEN ANCHORAGE AREA

The following petition bearing the signatures of 137 persons was presented by Hon B.M. Scott -

To: The Honourable The President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled:

We the undersigned are opposed to any further loss of seagrass meadows in the Cockburn Sound/Owen Anchorage area of the metropolitan waters.

We implore the Government to fulfil its obligations to environmental protection by prohibiting any further activities which cause loss of seagrass meadows.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and that your petitioners as duty bound will ever pray.

[See paper No 216.]

MOTION - URGENCY

Broome, Lot 621, Gantheaume Point, Incorporation into Broome Coastal Park

THE PRESIDENT (Hon Clive Griffiths): Honourable members will be delighted to know that I have received the following letter, dated 28 March 1995 -

Dear Mr President

At today's sitting, it is my intention to move under SO 72 that the House at its rising adjourn until 9.00am on December 25 1995 for the purpose of considering a request from the Broome community that the State Government should resume, as a matter of urgency, Lot 621 at Gantheaume Point, Broome and to incorporate that Lot into the Broome Coastal Park and to compensate the current owners fairly.

Yours sincerely

Tom Stephens MLC

In order for this matter to be discussed it will need the support of at least four members who will indicate that support by rising in their places.

[At least four members rose in their places.]

HON TOM STEPHENS (Mining and Pastoral) [3.45 pm]: I move -

That the House at its rising adjourn until 9.00 am on 25 December 1995.

It might seem an unusual move during the opening moments of the business of this Parliament to deal with what some might see as a microscopic issue for a small community in a remote part of the State in the township of Broome. However, it is illustrative of an important lesson because from the smaller issues we learn about the big picture. A need exists for the Government to show that it is prepared to listen to small communities and to show sensitivity to their wishes and needs. A real need exists for this Government - with this issue and with so many others - to demonstrate more sensitivity more promptly when handling issues of concern to local communities.

I am conscious that the issue of lot 621 at Gantheaume Point might seem trivial to some people, but that is not the case when one realises that we are dealing with the private property of individuals at Gantheaume Point which is one of the showplaces of this State. It is a real jewel in the coastline of Broome. It is a magnificent site with the dinosaur footprints below, and the magnificent red coastal cliffs overlooking the tremendously attractive, pristine coast at the southern end of Cable Beach. Lot 621 is the old lighthouse keeper's cottage site at Broome. Many years ago it was sold by the Commonwealth Government and eventually purchased legitimately by a local family with longstanding connections with the town of Broome. I refer here to the Fong family, which has both Chinese and Aboriginal heritage and which has been interested in developing the site for residential purposes.

Various planning studies on the point have been undertaken. That issue was left to the side in planning studies in the hope that discussions could be held between the parties, the Government and the owners, with a view to that site being relinquished and incorporated into the proposed Broome coastal park. Unfortunately, that did not happen in the planning strategies adopted for the future of Broome and the Broome coastline. In the past two years the issue has become more urgent because the owners of the block want to exercise their legitimate entitlement to build a residence on lot 621, which overlooks that magnificent location. In recent months the site has been cleared of the remnants of the old residence - the famous chimney stack has been relocated away from

the site - and a large stone wall is being built around the skeletal form of a new residence. Over the years and months this issue has been trundling along there has been a developing crescendo from the local community. As a local member I have received complaints from time to time that it has been allowed to stay as a freehold lot. I have urged the Government to consider getting on with the task of acquiring the lot and ensuring that the owners are given fair compensation or an alternative site to develop a residence. In recent days large public meetings have been held in Broome. An electors' meeting attracted around 150 Broome residents, which is a large number of electors for any shire council meeting and certainly a greater number than attended the annual general council meeting. A motion passed - virtually unanimously - called on the shire to request the Government to resume lot 621 and to incorporate it into the Broome coastal park and to fairly compensate the owners. That motion has been dealt with by the Broome Shire Council and sent to the Government for its urgent handling.

At the same time the Friends of Gantheaume Point has been established and has issued invitations to Ministers Cash and Foss who have direct responsibility for the Broome coastal park and the administration of the Land Act to ensure the orderly development of land planning, and environmental matters associated with the community of Broome. It is not the first time this issue has been brought to the attention of the current Government. In November I wrote to Mr Cash, and at the same time the Minister for Planning. Minister Cash wrote back saying that it was the responsibility of the Minister for Planning, and the Office of the Minister for Planning said it was the responsibility of Mr Cash. My concerned constituents were not impressed that the Government had not worked out who had responsibility for this important issue.

This issue needs to be handled with delicacy and sensitivity because of the hostility and emotion developing within a small community because a substantial residence will be built on a promontory in Broome. The Government has not sat down seriously with the current landowners to offer them an alternative to building on that site. In the view of the local electors in the shire, section 17 of the Public Works Act enables the Government to compulsorily resume land of this sort for a public work. The definition of work contained in part 1 of the Public Works Act includes work for parks, gardens, grounds for public recreation or for the protection and preservation of any cave or place of scientific or historical interest. They are just a couple of the sections of that Act which justify the use of those resumption provisions if no other arrangement can be entered into with the owners of this block. That resumption would be at fair value, which might be a substantial cost to the Government.

Interestingly enough the local community is already moving to collect pledges and donations to assist in the process of this State Government acquiring that land. It is a display of local support for the allocation of financial resources both from the local community and the State Government coffers that would see this land resumed and the current owner recompensed. It is a display of the bone fides of the community of Broome which should be given some serious consideration. A movement within the local community also wants the shire council to contribute financially to that resumption. It is a display that this location is sensitive for a range of reasons not the least of which is that the site is of enormous sensitivity to the recreation of Broome. People go there to experience the delights of this undeveloped most beautiful point south of Cable Beach with its dramatic view of the dinosaur footprints, the rock face, the sands and the waters associated with this tropical north west. I can well appreciate that Ministers might put this in the too hard basket, but I fear that will cause that community an unnecessary ongoing sense of division and bitterness. The opportunity exists for the Minister for Lands, for instance, to utilise the Land Act to offer to the current land owners by way of exchange adjacent coastal areas of Crown land such as Riddell beach, and to offer any fair compensation in addition to that. Riddell beach vacant Crown land could be released and processed through the native title processes quite expeditiously.

Hon E.J. Charlton: How long do you think that would take?

Hon TOM STEPHENS: It could happen quite expeditiously if there were a resolve on the part of this Minister. Somebody should accept responsibility to resolve the matter. It

is too easy for the Government to sit back and watch small communities tear themselves apart over questions that need to be resolved by the Government. The Government has the authority to resume for a public purpose, and it has now been fairly positioned with this request.

Ministers Cash and Foss have been invited to visit Broome next Monday evening to meet with the Friends of Gantheaume Point and others, and to progress the deliberations of that group of people and that community to resolve this question amicably. The alternative is to do what the Government has done to this point; that is, to pass the buck and to allow the issue to be passed from Minister to Minister as though no-one has responsibility for it when clearly it is within the statutory authority of the Minister for Lands to offer an exchange of land and compensation for that land, or perhaps an alternative, if it appealed to the current owners, for the Minister for Works to utilise the Public Works Act. The Minister for Environment's responsibility is to resolve the Broome coastal park issue in favour of the environmental questions fundamental to this location. I recognise that we are dealing with the rights of a titleholder who has freehold and a family with legitimate rights that need to be taken into consideration and weighed against the rights and expectations of the local community. They should be handled sensitively and justly, recognising that where there are competing claims the opportunity exists for the Government to step in and balance them, resolving those competing aspirations with, I guess, the wisdom of Solomon.

Hon Peter Foss: You are urging the conclusion of this situation and not saying the Minister should prejudice it?

Hon TOM STEPHENS: Yes. The responsible Ministers have the opportunity to intervene and take the necessary steps to consult with the community and the owners, to see if the owners can see their way clear to allow the resumption to be uncontested or their site exchanged for another location. I took the opportunity today to speak with the current owners who have said that nobody from the Government has seriously come to them with a substantial offer in regard to this site. No question has been put which they might realistically consider for a move or a figure for fair compensation for the resumption of that site. Is it any wonder they have given up dealing with those general questions? They have said, "It is our site. We will get on, develop it and build a residence", as is their current right. However, that right is infringing on the expectations and the rights of the wider community. That conflict needs to be resolved. Therefore, it is important that the Government steps in on this issue to ensure that the community does not tear itself apart.

HON GEORGE CASH (North Metropolitan - Minister for Lands) [4.04 pm]: I appreciate having been given some notion of the motion by Hon Tom Stephens. However, I disagree with some of the comments he made, particularly his opening comments in which he suggested the issue surrounding lot 621, Gantheaume Point, could be seen by some to be trivial. I disagree that it could be seen to be trivial because it involves the rights and entitlements of persons who own freehold land. That issue is greater than Broome or some other place in this State. To be told that such issues are trivial should concern anyone who holds freehold land at any location in Western Australia. Hon Tom Stephens also mentioned that he had been urging the Government to resume the land for some time.

Hon Tom Stephens: To resolve the issue.

Hon GEORGE CASH: Did Hon Tom Stephens ask the former Labor Government at any time during its 10 years in power to resolve the issue or the resume the land?

Hon Tom Stephens: Yes, I urged that it resolve the issue in the planning stages at that time.

Hon GEORGE CASH: I am pleased he acknowledges that not even the former Labor Government was able to resolve the issue by planning or by resumption.

It is important that the House understands some of the history of this. Lot 621 at Gantheaume Point, Broome is the subject of a freehold title that was created in 1931. It

contained the lighthouse keeper's house until the mid-1960s. In mid-1993, lot 621 Gantheaume Point was examined for Aboriginal sites by the Department of Aboriginal Sites. A site survey was requested by Minister for Aboriginal Affairs prior to construction of a new dwelling by the landowners. It may interest the House to know that the survey involved a meeting with about 40 Aboriginal people from the four major organisations. It also included a site visit with about 13 people, including those recognised as the traditional custodians of the area. Senior Aboriginal people indicated at the time that no Aboriginal sites would be disturbed by the proposed development.

However, later in the year the Kimberley Land Council objected to the proposed construction on behalf of the newly formed Yawuru/Djugun/Goolarabooloo working groups. The KLC requested another survey and asked that the area be declared a protected area under the Aboriginal Heritage Act. The KLC also sought from the Federal Minister for Aboriginal Affairs, Mr Robert Tickner, a declaration of the area under the Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act. Mr Tickner subsequently requested the landowners to negotiate with the KLC to resolve the matter. He also sought urgent advice from the State on the protection that might be available under state legislation. Mr Tickner was advised by the state Minister for Aboriginal Affairs of the freehold status of the land, which has, as all acknowledge, extinguished any native title. The subject land is not the subject of a native title claim. Mr Tickner was also informed that early investigations did not locate any sites in the area and therefore the provisions of the Aboriginal Heritage Act did not apply.

I must also advise the House that recently Mr Tickner decided not to make a declaration under the Commonwealth heritage legislation, which I guess indicates Mr Tickner's view about the importance of the site. However, that is not something I intend to enter into today. I also advise the House that all the approvals required for the construction of the dwelling have been issued to the current owner. Hon Tom Stephens has acknowledged that the site is privately owned. It is also in a prominent and significant location in Broome. The owners, Mrs Connie Fong and Mr J. Perpegnani have been granted approval by the Shire of Broome to construct a private residence on the site. The first stage of the development has commenced. A perimeter wall has been constructed, which has generated some adverse comment from some of the community groups in the area. Quite clearly those groups, as has already been suggested, are seeking Government intervention and the possible acquisition of the site.

I take issue with Hon Tom Stephens when he claims the owners, Ms Fong and Mr Perpegnani, have suggested that there has been a lack of any serious Government involvement with no-one going to them with a serious offer.

Hon Tom Stephens: Have you spoken to them?

Hon GEORGE CASH: I have not. The Minister for Planning through his department has had officers discuss the possible acquisition of the site with the current owners and also another location in exchange for the site. The response by Mr Perpegnani, who acted for the landowners was - these are the comments provided to me - that there would be a need to guarantee that any land proposed for an exchange must be similar in its characteristics; for example, it must have ocean views and access to the coast, etc; that clearance of native title should be gained; and if the land were to be purchased rather than exchanged, the price would start at at least \$1m. As I understand it, the price that was quoted was based upon the current owners' valuation of the land plus the amount spent on surveys, designs and current on-site works. I am advised that Mr Perpegnani also indicated the price may be higher after more detailed investigation has taken place.

The Government recognises it is an important and prominent site. We also recognise, as does Hon Tom Stephens, that it is a freehold site, and quite clearly the Government should protect rights and privileges pertaining to freehold sites no matter who the owners might be. The resumption of the land is out of the question because, firstly, the Government is not able to find suitable land to exchange for the current site and, secondly, the compensation requested is in excess of \$1m. Even if the Government were flush with funds, it would not change its position. Had the former Labor Government not

lost approximately \$1b through WA Inc this Government would have more funds available to it. However, the House has heard a lot on this subject and it certainly will not progress the argument of the acquisition of this lot.

The Government recognises the community concern about the construction of the residence on lot 621 Gantheaume Point, Broome; however, it also acknowledges that it is freehold land and the owners have rights which they are entitled to have protected. The owners are in receipt of the necessary planning approvals for the construction of their residence and at this stage the Government cannot see its way clear to spend more than \$1m to resume the lot to which Hon Tom Stephens referred in his motion.

HON TOM STEPHENS (Mining and Pastoral) [4.12 pm]: I am afraid that in the eyes of the local community the Government has not tried sufficiently to find alternative land that could be swapped for the site in question. I have no evidence to show that adequate effort has been put into this issue. Bearing in mind that by the Minister's admission, despite his responsibility for Land Administration and a couple of visits to the area since his elevation to the frontbench, he has not taken the trouble to deal with the most contentious issue confronting that small community. It is a pity for that community because it will lose an opportunity.

I suspect that what will happen is that pressure will continue to build in the community, not only from the ordinary town folk but from a broader cross section of the community who have economic interests that they believe will be prejudiced by this type of development. It appears they are joining forces and are locked into the same view; that is, to call upon the State Government to resolve the issue in the way they suggest, even if it involves only the cost of the resumption. The Minister cannot tell me that freehold land in this State is not resumed for public works. I do not accept that to be the case. Freehold land must be resumed on a regular basis under the Public Works Act for a public work.

Hon George Cash: Yes, it is. The Public Works Act is used to resume all sorts of tenure.

Hon TOM STEPHENS: In this instance I am talking about freehold land in which people have legitimate interests. The land could be resumed on the basis of fair compensation. The Valuer General could assess whether the landowners' expectation of the price for the land is legitimate. If it is a legitimate price the local community will offer to assist in what could well be a burden to the State. The local community has been tardy in dealing with this issue. The unanimity that is being expressed on this question was not previously the case. The local shire will have to participate as partners with the Government in this resumption. It is not fair for the resumption costs to fall entirely on the Government because of the community's tardiness in dealing with the question. Others have argued that is not the case because the community was relying on the question being resolved by the planning processes which they were assured by the bureaucrats would take place. It has not and the problem remains. This issue has been on the boil for more than two years and it is of substantial concern.

Hon George Cash: You acknowledged earlier that you had referred the question to the former Labor Government without any great success.

Hon TOM STEPHENS: It was hoped that the question would be resolved through the planning processes but the advice of the bureaucracy was faulty. This Government has an opportunity to resolve the matter under the Public Works Act. It will take someone of the stature of the Minister for Lands to sit down with the owners of the block to discuss the issue. The Minister must recognise that the owners have rights and the community has high expectations. The conflict between expectations and rights in association with lot 621 must be resolved otherwise there will be unnecessary conflict in that community. The Government is sitting on its hands while this and issues like it are not resolved. The Government must show sensitivity and leadership.

Hon George Cash: The Government does not have \$1m for one block of land.

Hon TOM STEPHENS: The Government wasted \$10m going to the High Court and the Minister for Lands was the champion of that cause. I told him the Opposition could save the Government \$10m.

Hon George Cash: You were not in the Parliament when the matter was debated.

Hon TOM STEPHENS: When I returned, in a Committee of the Parliament I made a succinct speech on the short title of the Bill and said that the Government could save \$10m if it did not go to Canberra with a High Court challenge.

[Motion lapsed, pursuant to Standing Order No 72.]

MOTION - LAPSED BILLS, RESTORATION TO NOTICE PAPER

HON GEORGE CASH (North Metropolitan - Leader of the House) [4.17 pm]: I move -

That a message be sent to the Legislative Assembly requesting that consideration of the following Bills be resumed at the stage they had reached in the previous session -

1. Forrest Place and City Station Development Amendment Bill
2. Industrial Legislation Amendment Bill
3. Land, Parks and Reserves Amendment Bill

Motions Nos 1 to 4 are very much procedural motions and are required to enable the business of this House to continue following the recent prorogation and opening of Parliament.

Question put and passed.

COMMITTEES FOR THE SESSION - STANDING COMMITTEES, REAPPOINTMENT

On motion by Hon George Cash (Leader of the House), resolved -

That the members, as they were in the previous session, be reappointed to the following standing committees -

- (1) The Standing Orders, House, Library and Printing Committees.
- (2) The Standing Committees on Legislation, Estimates and Financial Operations, and Constitutional Affairs and Statutes Revision.
- (3) The Standing Committee on Government Agencies.

SELECT COMMITTEE - WESTERN AUSTRALIAN POLICE SERVICE

Reappointment

On motion by Hon George Cash (Leader of the House), resolved -

That -

- (a) a Select Committee on the Western Australian Police Service be appointed with the same terms of reference and membership as that of a select committee appointed in the previous session;
- (b) the select committee have access to all documents, evidence and other material possessed, obtained, or controlled by the previous select committee; and
- (c) the committee report not later than 12 April 1995.

SELECT COMMITTEE - CAPE RANGE NATIONAL PARK AND NINGALOO MARINE PARK

Reappointment

On motion by Hon George Cash (Leader of the House), resolved -

That -

- (a) a Select Committee on the Cape Range National Park and Ningaloo Marine Park be appointed with the same terms of reference and membership as that of a select committee appointed in the previous session;
- (b) the select committee have access to all documents, evidence and other material possessed, obtained, or controlled by the previous select committee; and
- (c) the committee report not later than 30 November 1995.

ADOPTION AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon Cheryl Davenport, and read a first time.

Second Reading

HON CHERYL DAVENPORT (South Metropolitan) [4.21 pm]: I move -

That the Bill be now read a second time.

Mr President, unfortunately the identical private members Bill I introduced to the House in November last year did not complete its second reading before the House rose last December. Since then the Parliament has been prorogued. Therefore, even though the 1994 Adoption Act was proclaimed on 1 January of this year, I am compelled, as a matter of principle, to bring this Adoption Amendment Bill before the House. As indicated to members in November of last year, I am aware that it is extremely doubtful the Bill will be successful in another place, were it to pass all stages in the Legislative Council. However, it is my view that I must proceed given the expectation of adoptees and relinquishing parents, not to mention the time and effort - some 15 formal hours - spent on this reference by the Legislation Committee in 1994.

It is important that the Minister for Community Development honour his obligation to me when he agreed to refer these clauses from the 1994 Act - not the Bill - relating to old Act information and contact vetoes. The Minister's refusal is but another instance of this Government's broken promises and lack of accountability. It is again important to place on the public record that had Minister Nicholls not agreed to make these amendments to the new Act if the committee provided the evidence prior to the review clause coming into effect, I would not have moved the referral motion to the Legislation Committee in the first place. The fact that the Minister's Liberal colleagues in this place - Hon Derrick Tomlinson, Hon Bill Stretch and Hon Ross Lightfoot - numerically dominated the Legislation Committee during the time I served on it, plus the fact that the committee's report No 27, tabled on 29 September 1994, was unanimous, has been totally ignored.

It is an understatement to say that the Minister lacks compassion! Indeed, after his recent attack on the funding of non-government organisations in this State, it is outrageous that he remains in charge of a portfolio area which requires a Minister with attributes such as sensitivity, tact and strength, coupled with compassion in order to develop mature and progressive social change. Thank goodness the Premier saw fit to remove the domestic violence policy component of his portfolio to the Attorney General at the recent ministerial reshuffle. It is common knowledge both in the community and the bureaucracy that he does not understand the cause of, or consequences caused by, domestic violence, and it is obvious to me that he also lacks the intelligence to understand the ramifications of vetoes in the Adoption Act.

The Minister's attitude to me following the release of this report was both tardy and patronising. In a conversation I had with the Minister here in Parliament House last year he was dismissive, brushing aside the fact that the Legislation Committee had tabled unanimously agreed recommendations. His subsequent reaction to the pain and anguish experienced by adoptees and relinquishing mothers when they approached him after the

tabling of the report was to dismiss their views as those of a "bunch of obsessed women" who really had no idea what they were talking about! It did not matter to him that these women had worked for many years in the support organisations that assist those who are the "victims" of adoption. It seems the only person expert in the area of adoption is Minister Nicholls!

I wrote to the Minister on 4 October, a week after the Legislation Committee report was tabled. He took until 21 November to reply. The reply is a disgrace! He states that my claim that he had agreed to amend the Act "if the Legislation Committee came forward with evidence" is false. He then goes on with a paragraph of gobbledygook as to the meaning of "what evidence is to be or what quality of evidence". He then accuses me of "my recollection of our conversation on referral of the Act to the Legislation Committee as being influenced by my own political agenda", then goes on to say that "my colleagues when in government had failed to deliver an updated Act". I assure members that my only "agenda" was to provide up-to-date information that would convince the Minister that vetoes were no longer necessary in the far more enlightened community of the 1990s. For the record, I have always acknowledged the tardiness of Labor in government on the adoption issue. I found interesting this paragraph of the Minister's reply -

The provision of vetoes and the message box systems are fundamental to the new Act and to suggest that to remove information and put a time limit on contact vetoes would only be minor amendments is to say the least absurd.

During the Legislation Committee deliberations the committee had close contact with officers from the Department for Community Development and Parliamentary Counsel. Not at any time were we told that vetoes were a fundamental part of the new Act.

Once again I pose this question to the Minister: Where was he during the numerous public reviews undertaken and reported on during the 1980s? Recommendations determined by people experienced in all aspects of adoption are the basis on which the majority of the new Act was developed. In 1991 the final report prepared by the Western Australian Adoption Legislation Review Committee, entitled "A New Approach to Adoption", concluded that lifetime information and contact vetoes were not appropriate, and recommended accordingly. The 1990 New South Wales Adoption Information Act allows no right to any member of the adoption triangle to information vetoes and it has a 10 year finite time limit on contact vetoes. A review of the New South Wales Act conducted by the New South Wales Law Reform Commission, tabled in 1992, indicates that these sections of the Act are working well and recommends no change. I have again read the Minister's contribution in the Legislative Assembly debate, and believe he fails to articulate why he believes vetoes are necessary.

I draw members' attention to the content of the Legislation Committee's report on adoption. In the four years I served as a Legislation Committee member never did I witness such pain and anger tendered as verbal evidence. Those people who came before the committee were very open and honest in the way they presented their stories. On several occasions during the hearings I struggled with my emotions, as I am sure did my colleagues. It is as a result of hearing such openness and honesty directed by witnesses towards positive change that I am so committed to amending this newly proclaimed Act. It is grossly unfair and unjust as it relates to both adoptee and relinquishing parents. The committee was always aware that it was dealing with competing values. However, I believe the committee was of the view that paramount to those competing values was the paramountcy of the adoptee, who today might be aged anything from 18 to 70, or more. The following excerpt from the report of the NSW committee by Robert Ludbrook, a respected children's rights barrister, in a submission to the New South Wales Law Reform Commission's review of that State's Adoption Act 1965, illustrates the position in which the committee was placed and on which it was consequently required to arbitrate -

Competing Values -

Adoption is a legal concept: A legal status created and defined by Statute Law. Unlike other forms of legal status that can be bestowed upon non-parental carers,

adoption not only gives legal powers and responsibilities to the carer, it extinguishes the relationship between the biological parents and the child and has the effect of treating the biological parents as if they were strangers to the child. Adoption has been described as a statutory guillotine in that it severs the child's legal links with his or her parents and grafts on a new relationship with the adoptive parents. In a sense adoption is a legal fiction. It substitutes the adoptive parents for the biological parents and deems the child to be the child of the adoptive parents. It gives the adoptive parents a status superior to that of the natural parents in that the biological parents cease to have any legal relationship with the child. They lose any claim they might otherwise have had over the child by reason of their biological parenthood. Adoption purports to alter the historical, genealogical facts of the child's parentage by creating artificial parentage. It is not only the child's links with the biological parents that are severed by adoption: All legal links with siblings, grandparents, aunts, uncles and other members of the family of origin are deemed to cease to exist.

It was made quite clear to the Legislation Committee by adoptive parents that they believed the question of privacy and confidentiality had been negotiated and agreed at the time of the adoption. This group was adamant that its position, guaranteed under the old Act, should remain. I remind members that amendments to the 1896 Act covering this point of view were implemented many years ago when societal values tended to judge harshly ex-nuptial conception and birth as sinful or immoral. Fortunately, adoption is no longer regarded as a stigma on adoptive parents, relinquishing parents or adoptees, although one might be forgiven for wondering, given Minister Nicholls' decision and attitude towards the Legislation Committee.

The committee chose to illustrate in its report two of the positions in the adoption triangle. It quoted excerpts from the Adoptive Parents Association, as well as from several adoptees, one who when searching for his heritage had found a veto placed by his biological mother on access to information and contact. At the time the Legislation Committee report was tabled, just over 300 vetoes were in existence in Western Australia.

It is pertinent to quote some further comments made by a male adoptee in regard to vetoes which clearly demonstrate the anger, hurt and numbness felt by nearly all adoptees, I suspect, who confront the rock wall of a veto -

The veto is a terrible shock. No matter how well the social workers handle it in telling you that it is not rejection - that the birth parents just cannot handle it at the moment - you know emotionally when you feel something like that happen that rationally, sure, your partner, daughter or father is going through a difficult time and perhaps cannot give you what you need. However, it still hurts; the emotion is still there. There are two separate issues. A veto of five years would be better than 10 years or better than a life-long veto. It gives you hope, especially if you can combine that with some sort of facility whereby you can write to them and leave a message. They can get used to the idea that this is not so bad after all, that the sky has not fallen in, and that the world has not fallen apart.

My mother has since told her husband and four of her five children about two children she gave up. One of the reasons I made contact with her - I was surprised that the committee was surprised that I went ahead and did it - was partly for me, but more for her. I did not want her going around with a burden for the rest of her life. She was only 50 at the time and probably had another 25 years to live. Why should she have to carry that burden because she is locked into a time warp - the social stigma of the late fifties and early sixties - and bears the shame and guilt of having borne two children out of wedlock to the same man? I did it out of a sense of fairness, but there is no doubt that I did it for myself as well. I needed that information. I was in a terrible state. I was out of work for so long because of what had happened.

Despite the trauma of finding out about the veto, this adoptee kept searching and

eventually found both of his biological parents. Although the reunion has not been perfect, the knowledge of his heritage has enabled him to pick up the threads of his life and get on with it.

The Legislation Committee also received evidence during its hearings from women who had relinquished children for adoption. Although the committee's report did not dwell on the plight of relinquishing mothers, members must be made aware that vetoes can also be placed by an adoptee to prevent information or contact by biological parents. In hindsight, the committee's report should have mentioned, and provided an analysis of, the injustice created by the moralistic judgment contained in the previous laws relating to relinquishing parents. Having heard the evidence from all those involved in adoption, the committee reached unanimous agreement on the recommendations after very little deliberation.

I am reliably informed that Minister Nicholls gave his word to all organisations involved in the adoption triangle that in framing the new legislation the Government would "recognise the equality of all parties to adoption". It seems that the Minister's understanding of equality for all parties is their ability to place a veto. This is untrue because the biological mother's name appears on the order of adoption which is in the possession of the adopting parents. Put simply, the adopting parent knows the name of the relinquishing mother from the outset. I suggest that if one is diligent, and many adoptees are, little effort is required to find out the whereabouts of the relinquishing mother. Therefore, it follows that equality in regard to vetoes is superfluous and misleading because no natural mother can prevent adopting parents from being in possession of her name.

At this point it is appropriate to quote the verbal evidence tendered to the committee hearings by a relinquishing mother -

One can only conclude that there were very few genuine relinquishments. This is borne out by the fact that adoption figures have declined rapidly since the turnaround in social attitude and introduction of financial support. No-one ever wanted to give away children, the painful fact is that little can be done now to undo the suffering or change the events of the past, but it is still possible to give women some very public acknowledgment, via enlightened legislation, that what happened was due to an inhumane process which was poorly handled, flouted the law, and which constituted an impertinent meddling in people's lives. Women need an acknowledgment that they were given a raw deal, that they were victims of an era. As legislators, you have the opportunity to give them access to identifying information about their children.

I remind members that birth mothers took the hard option of giving birth; showed respect for human life in an era when there were many illegal abortions; and supplied people with families, albeit reluctantly. Society owes a debt to those victims of that misguided era. Surely they have a right to know, at least, the new identity of their own child for whom they endured such misery. For too long our society readily accepted adoption as both a means of accepting illegitimate births as valid and, at the same time, conveniently using these babies to solve problems arising from infertility. Looking back on that time in our history as one witness put it, "What really occurred was rampant baby harvesting and exploitation of vulnerable young women, resulting in many good, ordinary, decent people bitterly surrendering their babies for the uncertain future of adoption." As legislators we have no alternative other than to put right as best we can those grave wrongs of the past. Only then will adoptees and relinquishing parents be acknowledged as equal partners in the adoption triangle.

This amendment Bill is based on the legal advice provided by Parliamentary Counsel to the Legislation Committee. It merely provides the legislative means to implement the unanimous committee recommendations. Following the Standing Committee on Legislation's examination of part 4, division 4 of the Adoption Act 1994, it recommended -

- (1) That the information veto in relation to old Act adoptions be removed so that the only restrictions on access to information should relate to age.

- (2) That provision for contact vetoes should exist for a maximum of 10 years from the date of the Act's commencement, after which time -
- (i) there shall be no right to lodge a contact veto; and
 - (ii) vetoes already lodged shall cease to have effect.

I reiterate that Minister Nicholls' ignorance in relation to the committee's recommendations on the ground that they provide no legal reason for change flies in the face of the agreement he and I reached on the evening of 6 April last year. Had the Minister given such a direction, my personal integrity would have prevented me from moving to refer the veto clauses to the committee. The Minister's claim of making all members of the triangle equal has again raised unnecessarily the expectations of adoptees and relinquishing parents, mothers in particular, and I condemn him for his actions.

Finally, I respectfully request Hon Derrick Tomlinson, Hon Bill Stretch and Hon Ross Lightfoot to remember those committee hearings, consider carefully the evidence we heard, and bear in mind the pain, anguish and anger that society previously created by demanding such laws from past legislators. Despite the recalcitrance of Minister Nicholls, I hope those three members of Government will be prepared to cross the floor and be accountable. In doing so, they, along with the Opposition, will have the opportunity of providing an outcome that ensures justice for all the parties in the adoption jigsaw.

I ask members to take some time to read the article entitled "Shadows of the Past" in the Big Weekend supplement of *The West Australian* on Saturday, 18 March. Twenty-two year old *The West Australian* journalist Derek Pedley tells his story. It has a happy and positive ending. The reunion between him and his biological mother may never have occurred had there been information and contact vetoes in place! I conclude by reading to members the following letter which appeared in the November edition of *Jigsaw Pieces*. It illustrates most aptly the reason behind the Legislation Committee's report. It states -

"To deny a citizen the right to his or her own birth certificate . . . is against all basic human rights." This quote by an adopted woman (reported "West Australian", 1/10) should guide and hasten the W.A. Parliamentary Committee seeking to remove the veto on information sought by children mothers gave up for adoption.

Parents must accept that their choice to have a child carries a mandate to provide the best possible life for that child. This may include giving the child up for adoption. It also includes unconditional openness. This century's cruel adoption laws are being eroded but too slowly to give hope to those tragic adoptees in their sixties and seventies who will die without knowing who they really are.

Debate adjourned, on motion by Hon Muriel Patterson.

MINISTERIAL STATEMENT - MINISTER FOR THE ENVIRONMENT REPRESENTING THE MINISTER FOR PLANNING

Metropolitan Region Scheme, Perth and Western Suburbs Omnibus Amendment

HON PETER FOSS (East Metropolitan - Minister for the Environment) [4.41 pm] -by leave: Mr President, earlier today the Perth and western suburbs omnibus amendment was tabled. The State Government is today presenting finalised plans for a major amendment to the metropolitan region scheme, which will update MRS zonings and reservations for the Perth and western suburbs area. The amendment is one of a series of omnibus amendments which are being introduced for each of the district planning committee areas of the metropolitan region.

The omnibus amendments are intended to incorporate the smaller scale changes to zones and reservations arising from decisions made by the Western Australian Planning Commission or the Government, or generally to advance planning of the metropolitan region. The Perth and western suburbs omnibus amendment was advertised in the

Government Gazette on 5 August last year and people were invited to lodge written submissions in relation to the proposed changes. Part of the amendment will allow the redevelopment of defence force housing land south west of Campbell Barracks in Swanbourne. The Defence Force Housing Authority sought a rezoning for the land to comply with State and local government planning requirements. The Commonwealth owned land, currently reserved for public purposes, will be zoned urban. The amendment is consistent with the continued use of the land for defence force housing and with the character and pattern of land use and zonings surrounding the site.

The major amendment also includes zoning changes for the Hollywood Hospital site to urban and includes the Mosman Bay tearooms in the parks and recreation reserve. The Hollywood Hospital site required rezoning from the public purposes reserve in view of the recent change from public to private ownership. The amendment also transfers the Mosman Bay tearooms site in Mosman Park from waterways reservation to parks and recreation. This will ensure consistency with the local town planning scheme. The Western Australian Planning Commission received four public submissions, as a result of which minor boundary changes have been made to the Campbell Barracks and Hollywood Hospital site proposals. As a Government, we are taking a responsible approach to updating the metropolitan region scheme and I trust the Opposition will support our efforts.

ADDRESS-IN-REPLY

Motion

Resumed from 23 March.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [4.43 pm]: The Opposition is pleased to have the opportunity to respond to the address by His Excellency, the Governor. It is important to start with the speech we heard from Hon Phil Lockyer, the content of which I was somewhat surprised to hear and read. When I made my first speech in this place, Hon Phil Lockyer was not impressed with what I had to say. What I said then was very similar to what he said in his speech in the debate on the Address-in-Reply.

Hon A.J.G. MacTiernan: You have been very influential.

Hon JOHN HALDEN: I have indeed, to some degree; however, one finds that when members get closer to retirement, as Hon Phil Lockyer has announced in the House, they become a little freer in their thinking.

Hon Sam Piantadosi: He has found himself at long last.

Hon Tom Stephens: Did he announce it in the Parliament? I was not here.

Hon JOHN HALDEN: He said that Mr Stephens would be pleased. I could make obvious points about Hon Phil Lockyer's latterday conversion to a principle of one-vote-one-value which I support and which I hope his Liberal colleagues will support. Unfortunately I do not think his National Party colleagues will support it all. The consequences of one-vote-one-value on a statewide proportional representation system would probably mean that the Greens (WA) would have two members in this place and the National Party, a party that has been overrepresented in this place for probably the best part of half a century, would struggle to have one member. I do not hear too much from two of its members. I hear a lot from the Minister who represents that party, and it would be of assistance to the quality of the debate if that were to be the case. I do not expect for one second that the National Party will embrace this concept, no matter how fair and equitable, with any openness or goodwill.

Hon A.J.G. MacTiernan interjected.

Hon JOHN HALDEN: I do not think one could extend that sort of title to them in the matter of political voting equity.

Hon Phil Lockyer made some relevant remarks about the future of this place. He criticised this place as being an extension of the Executive. He went on to say that if it

continued to be nothing more than an extension of the Executive and a reflection of the other place, in essence, this place had no future whatsoever.

Hon George Cash: I agree with what Hon Phil Lockyer said in that regard and you will remember that some time ago I suggested that I could see the day when this House did not have Ministers.

Hon JOHN HALDEN: Indeed.

Hon George Cash: I think there is a need for us to be progressive.

Hon Sam Piantadosi: We will walk out with you.

Hon George Cash: I am not walking out. I am suggesting something else.

The DEPUTY PRESIDENT (Hon Barry House): Order! I ask members to let the Leader of the Opposition make his speech. At the moment four others are trying to do that for him.

Hon JOHN HALDEN: In fact, we have had that discussion privately.

Hon George Cash: I have raised it in this place before.

Hon JOHN HALDEN: I was not aware of that.

Hon Tom Stephens: I will write his resignation, if you will sign it.

The DEPUTY PRESIDENT: Order!

Hon JOHN HALDEN: We will have to assess this situation in the future. I do not know that that is the most imperative reform facing this place. I do not think we should start with the rorting, malapportionment and social manipulation to suit the conservatives in this State for well in excess of a century. Let us start with some basic electoral equality. It has never been heard of in this place, particularly for Aborigines or women or people who did not own property. For as long as possible this place has hung out against any form of electoral equality.

As we get closer to that goal, this place faces another challenge by the most ardent supporters of it, not critics. I have said it before in this place, and I will say it again now: The actions of this Liberal Party coalition in government in the past two years have brought the long term survival of this place into more ill repute than any others in the past. The late Hon Bob Pike, members will recall, introduced a committee system as the saviour of this place. However, through its actions this Government that purports to support this place - at all costs it supports its political survival and manipulation of our parliamentary and political systems - has aborted the role of this House of Review. I do not need to go back any further than to remind members of the Adoption Bill, the Commission on Government Bill and the Young Offenders Bill, when the Executive interfered directly in the running of committees for a political end in a House of Review, one that the Leader of the Government says that to perform its role it should not have Ministers. Before we get to that point, let us fix up these others, because this House has only one place to go if it does not do that; that is, it will not exist.

I have not been an abolitionist of this place, but it will not take me to advocate that - the community will do it for us. The community, which does not hold politicians or the political process in high esteem, will rise and demand that this reflection of the other place, which is at the hand and the behest of the Executive on all occasions, is redundant.

Hon B.K. Donaldson: It's no wonder, after 10 years of your Government.

Hon JOHN HALDEN: It will be because of the actions of those who purport to be supporters of this place that it gets to that point. When we look at the record of this place there is no doubt that it has been a lame dog when it comes to conservative Governments and the review process. For Labor Party Administrations it has been nothing but a House of obstruction. Today, in a community which is much more politically aware than previously, people will not tolerate the gross waste of taxpayers' money if this place is to be nothing more than a reflection of the Legislative Assembly and a puppet to the Executive of either party. Let me be clear about that.

If the situation is not taken seriously by the Government, if there is not some sensible discussion about the reform of this place - be it on whatever basis the Leader of the Government says - and if we continue down this path, it will be my contention that there is no role for a Legislative Council and that it should be abolished because it will be nothing more than a gross waste of taxpayers' money. It could perform a particularly useful role: In certain instances it has. However, when the heat goes on it crumbles. The heat goes on only when the conservatives are in government and they do not want to face the scrutiny of this place - the very thing which they say is of the utmost importance about a House of Review. When put to the mettle, they crumble - one by one.

The record of this House is appalling; for the past two years it is absolutely appalling. Do members remember the last Address-in-Reply? A new member, on the goading of Hon Ross Lightfoot, had the temerity to move for the end of the Address-in-Reply so that it be gagged. That is the sort of behaviour that brings this place into ill-repute. A House of Review was denied the right for every backbencher to complete his or her speech because a puppet of the Government on the advice of another puppet of the Government decided to end the debate. Worse than that, it could have been some mad aberration of a member of the Government and his cohort; but when the division took place government members, who support this House of Review and the right of members to respond and to raise concerns, supported these two lunatics. That shows the contempt in which they hold this place.

Hon George Cash: I think that at the time we were concerned about tedious repetition.

Hon JOHN HALDEN: Tedious repetition had nothing to do with it. The Government had basically no legislation on the Notice Paper. The Opposition would have accommodated the Government whenever it wanted to go to the legislation. The crisis is before the conservatives. If they believe in this place and if they think this place has a future, I suggest that it is in their hands, not ours. The Opposition has never had the same admiration as those opposite about this place. Perpetually members opposite have driven down our throats the importance of this place. However, when put to the mettle they buckle to the Executive, to the Premier, and to the Ministers.

Whether I agree with the concept of having no Ministers in this place is not the point; however, in a House of Review, in a conservative Government, what does the Government do? It has five Ministers in this place. This House is dominated by the Executive. Unless the conservatives decide to negotiate sensibly with the Opposition about the future of this place, there will be no future. As I said, take it as read: Unless those negotiations start soon it will be my position to advance for the abolition of this place because it does nothing useful.

In proceeding a little further with this matter and how this place is not a House of Review, I refer to the events of 24 November 1994, which was probably the most infamous day in the history of this place, but a day which cost the taxpayers of this State \$10m at least; a day when the conventions, protocol, and niceties of this place were thrown out the window on what was a lie, a deception, and a political stunt for this Government - this Executive. I refer to the night the Government, after having one day before second read its Land (Titles and Traditional Usage) Act, brought on without one minute's warning the second reading debate of that Bill. It then proceeded to gag and guillotine that Bill through. The Government did not listen to my statements that what its Ministers and backbenchers were saying was not true. It did not believe the facts as they were put to it. It had a political agenda and it drove down the line to achieve that end.

About 5.30 pm I intend to quote some of the notable comments of that night. It will be an enjoyable reflection for members on this side, and particularly unenjoyable for those on the opposite side. However, let us not forget that on that night the absolute betrayal of everything this place has ever stood for in terms of conventions and procedures -

Hon P.R. Lightfoot: You betrayed Western Australia. You betrayed our State to the Commonwealth.

Several members interjected.

The PRESIDENT: Order!

Hon JOHN HALDEN: I suggest to Hon Ross Lightfoot that he appeal to the Privy Council, but someone had better tell him that it does not have much application here.

Hon Mark Nevill: He betrayed the wheat farmers of WA to Mr Shultz.

Several members interjected.

The PRESIDENT: Order! I want to hear what Hon John Halden has to say, not what the other members have to say.

Hon JOHN HALDEN: There was no greater opportunity than that night for the Government, not to defeat its legislation, but to allow this place to operate in a reasonable and responsible way. However, that was not to be the case. It will be to the eternal shame of members opposite - we will remind them about this for a long time - that they behaved in the way they did that night. They cost the taxpayers \$10m at least. We will find out the true figure. Worse than that, they did not even listen to the Crown Law advice they had about Mabo. That advice said that the Government could not be successful.

Several members interjected.

Hon Tom Stephens interjected.

The PRESIDENT: Order! Hon Tom Stephens will come to order.

Hon Tom Stephens: I didn't hear you, Mr President.

The PRESIDENT: Order! I was yelling a lot louder than Hon Tom Stephens was.

Hon JOHN HALDEN: The Government's Crown Law advice was that it could not be successful, but it went off and got the eminent Queen's Counsel from Melbourne.

Hon N.D. Griffiths interjected.

Hon JOHN HALDEN: I assure members that Lord Foss will be mentioned. He will not be missed in this speech for one second.

Off the Government went to Melbourne and sought legal advice that suited its purposes.

[Questions without notice taken.]

Hon JOHN HALDEN: I referred to the night of infamy in this place on 24 November when the Government brought on the second reading debate on the Land (Titles and Traditional Usage) Bill.

Several members interjected.

The PRESIDENT: Order! Members should stop interjecting.

Hon JOHN HALDEN: I was reminding members of the opportunity to prove some worth of this place, to prove that its focus is to be a House of Review - but that was not to be the case.

I went through the *Hansard* to recall some comments by members opposite on that night. One need go no further than the comments by Lord Foss, the Minister for the Environment, recently removed from the Health portfolio at the insistence of the National Party. Hon Peter Foss made some interesting comments on that night, bearing in mind that in Opposition he was the greatest advocate of this House as a House of Review. Mr Foss lectured us day in, day out about the integrity of this place. When it came to the crunch what was the role of the Minister, this extension of the Executive, on the night of infamy besides running from the Premier with Hon Bob Pike? Mr Foss said that the Government realised that it was necessary that this House deal with this Bill urgently; and that, unfortunately, there was a constitutional requirement that this legislation must be passed prior to the federal legislation being passed.

I see several heads nodding! From the State's perspective there was a requirement that this legislation be passed ahead of the federal native title legislation. However I expect that solicitors of such eminence as Peter Foss - as he tells us regularly - would think that

perhaps the state native title legislation might run foul of the federal Racial Discrimination Act. I could work it out, and I said so on the night by way of interjection, but I was dispensed with arrogantly by the Minister as not knowing anything. I expected that this meddling Minister would have thought about that. However, as usual he was advancing the government line. He had not thought of the impact of the Racial Discrimination Act. That would be fundamental for a House of Review doing its job properly and adequately but, more importantly, for a Minister after being in Opposition as a backbencher advocating the role of this place as a House of Review.

Hon N.D. Griffiths: I am sure he considered everything and was giving the best legal opinion he was capable of.

Hon JOHN HALDEN: I agree, but he did not stop at that point. He never does. We always have to listen to him for hours as the ego and mouth run on. The Minister said -

The important thing insofar as this Parliament is concerned is that the Government must protect the interests of this State which are being threatened by the speed at which the Commonwealth Government's legislation is moving through the Federal Parliament.

Hon P.R. Lightfoot: That is true so far.

Hon JOHN HALDEN: The Minister continued -

In addition, it is being threatened by retrospective legislation which is being introduced by a Senator representing Western Australia.

Hon A.J.G. MacTiernan interjected.

Hon JOHN HALDEN: We must bear in mind that claim was made by the great advocate of the House of Review on the conservative side - Mr Foss.

Hon N.D. Griffiths interjected.

Hon JOHN HALDEN: He would be the conservative's great advocate of verbosity in this place. Mr Foss said that we must act quickly because of the speed at which the Commonwealth Government's legislation is moving through the Federal Parliament. In addition he said that the WA Greens senators would introduce retrospective legislation which would be supported by the Labor Party.

Hon A.J.G. MacTiernan: He knows as much about politics as he does about law.

The DEPUTY PRESIDENT (Hon Barry House): Order! Let the member on his feet make a speech.

Hon JOHN HALDEN: It was then about 10.30 pm in this wonderful House of Review. It might have been appropriate, as was advanced to us, had the Federal Parliament been working beaverishly away ramming its legislation through. However, the facts are that the Federal Parliament had gone home for the night and the Australian Labor Party, the Government, would not support the Greens' legislation. The fact is that this Minister was part of the treachery and deception of this House at that time.

Hon N.D. Griffiths: He is still lost for words too. He has no answer for you.

Hon JOHN HALDEN: The next point made by Mr Foss, the great advocate, the protector of this House of Review, should not be lost on members opposite.

Hon Derrick Tomlinson: I have no intention of doing that.

Hon JOHN HALDEN: Mr Foss said, "We believe that our legislation is good legislation." After spending \$10m that can be seen as a fantasy, a fraud, and hopeless incompetence. No wonder the National Party wanted Mr Foss out of Health.

Hon A.J.G. MacTiernan: He would be marked zero out of seven.

Hon E.J. Charlton: Does he say anything about the legislation being no good?

Hon JOHN HALDEN: I am glad the Minister for Transport interjected. The House should be acquainted specifically with the High Court ruling. I do not want there to be

any mumbo jumbo, and I will refer to the Minister for Transport and his mate the Premier and their half truths later. The High Court ruling is dated 16 March 1995. Bearing in mind the absolute infamy of this place let us look at what the umpire said about what the Government did on that night in this place. It acted contrary to the advice it had received, and to the suggestions about reviewing legislation appropriately. The answers to questions 17 and 18 of the High Court Ruling state -

The whole of the 1993 W.A. Act ... is inconsistent with the provisions of s.10 of the Racial Discrimination Act and therefore invalid by reason of s.109 of the Constitution.

That was patently clear - except to the Minister for the Environment.

Hon P.R. Lightfoot interjected.

Hon JOHN HALDEN: I will respond to Hon Ross Lightfoot later. The ruling continues -

The whole of the 1993 W.A. Act ... is inconsistent with the Native Title Act 1993 (Cth) and is invalid by reason of s.109 of the Constitution. Otherwise it is unnecessary to answer whether the present invalidity of the provisions of the 1993 W.A. Act results solely from their inconsistency with the Native Title Act or also from its inconsistency with the provisions of s.10 of the Racial Discrimination Act.

Hon A.J.G. MacTiernan: Did we not tell them that?

Hon JOHN HALDEN: We did indeed, and quite specifically. I also remember that Lord Foss did not know what we were talking about. He said, "I know it all."

Hon E.J. Charlton: How do you think all the land in Western Australia will be handled now?

Hon JOHN HALDEN: Mr Foss stated, "We believe that our legislation is good legislation." After spending \$10m the Government was proved wrong, but worse that that it made this place a collective mockery by what it did on that night.

Hon E.J. Charlton: You still are.

Hon JOHN HALDEN: I am cut to the bone by the witty interjection from the Minister for Transport. One should not forget the comments of Hon Ross Lightfoot - commonly referred to in some places as Lord Sandstone.

Several members interjected.

Hon JOHN HALDEN: Members should listen to the words of wisdom of Hon Ross Lightfoot. He is the man who wants to appeal to the Privy Council. He pronounced that the federal legislation was racist and that the State Government Bill was supported by rational, clear thinking people. Of course, the seven High Court judges do not fit into that category. Obviously the advice of the good Minister for Environment does fit into that category. The Minister's advice was wrong.

Hon George Cash: Sit down and take your medicine like us.

Hon P.R. Lightfoot: You are all geniuses in hindsight.

Hon JOHN HALDEN: The member should read *Hansard*.

Hon P.R. Lightfoot: If you could aggregate all your brains they would not equal Minister Foss'.

Hon Kim Chance: How come he was wrong and we were right?

The DEPUTY PRESIDENT: Order! I suggest that members allow the Leader of the Opposition to make his speech and the other nine members stop trying to make it for him.

Hon JOHN HALDEN: We are having some fun and basking in some collective yet retrospective glory. Hon Ross Lightfoot said that Western Australians had been very generous to Aboriginal people.

Hon P.R. Lightfoot: That is true.

Hon JOHN HALDEN: The member has confirmed his statement. He also said -

I do not want this House to swallow the guilt that has been cast out by bleeding heart Australians and others, and in that guilt think that we should do something more than we have done for Aboriginal people.

That is beside having accommodated them in places like Jigalong, having a government policy to remove their children from their parents, putting them in chains, shooting them, and taking their land off them. We have done a great job for Aboriginal people!

Hon P.R. Lightfoot: You are talking nonsense.

Hon JOHN HALDEN: They are the comments of - as I am sure Mr Lightfoot would say - a rational clear thinking person in Western Australia. It is about time the Leader of the Government gave Mr Lightfoot a tablet. Mr Lightfoot went on to say that the High Court had been politicised and that this was the reason for the problem with land titles. Was the politicisation of the High Court before or after Sir Garfield Barwick's appointment? He was a conservative Attorney General from the Federal Parliament who was appointed to the High Court. He made an absolute dog's breakfast of our taxation laws to protect his mates in the bottom of the harbour scandal. The Liberal Party politicised the High Court. It was members opposite. They do it time and time again. They have double standards and cannot stand the truth.

Hon P.R. Lightfoot: It has been politicised. The majority of appointments to the High Court were made by the socialist federal government.

Hon JOHN HALDEN: It may be because we have been in Government for the past 12 years.

Hon P.R. Lightfoot: Justice Mason was appointed in 1974.

Hon JOHN HALDEN: That highlights some of the brilliant comments by members opposite that are recorded for posterity out of that debate. We were in that position on that night -

Hon E.J. Charlton: We were operating under an Act that your mob have now realised does not work, and they will change it. What do you say about that? You do not want to answer that do you?

Hon JOHN HALDEN: This Government believed that there was a deal between the WA Greens and the Australian Labor Party in Canberra, that a Bill would be rushed through the Parliament that would be retrospective and would get in ahead of our Bill so it needed to act first to, in principle, do one thing; that is, to extinguish native title without compensation and without acknowledgment. The great difficulty was that the Federal Parliament was not sitting. It could easily be ascertained that no deal existed, nor would there be a deal, between the Government and the Greens. We played a political stunt, which has been played out on this stage ever since that night. Let us highlight the record of the conservative parties in this matter. How did it start? Did they have a mandate on this from the people when they went to the election? They never raised it as part of their platform whatsoever, and nor did they in the previous federal election.

Hon George Cash: We have always been known for sticking out in Western Australia to protect Western Australian future interests.

Hon JOHN HALDEN: The Government has always been known to stick it into any minority group it can possibly find. It developed a racist piece of legislation as defined by the High Court, which breached the Racial Discrimination Act and was totally invalid. The first substantial public comments on this matter came from the then president of the Liberal Party Mr Bill Hassell who described the Mabo ruling as illegitimate, illogical - that is where Hon Ross Lightfoot found the expression - and a racist decision which could cause social division. Mr Hassell started to peddle that line of illegitimacy, illogicality and racism likely to cause social division, obviously to achieve just that and to cause social division. Do members remember the comments of the Premier as he went

out and advertised, again wasting taxpayers' money not accounted for in the \$10m? He said, "Your backyards would be the subject of native title." That is the truth.

Hon P.R. Lightfoot: That is true.

Hon E.J. Charlton: Some backyards are.

Hon JOHN HALDEN: Government members know that was not true but peddled it for socially divisive reasons and to ensure that the political image of their leader as a wimp was changed. The Government decided to pick upon the most socially and economically disadvantaged group of people in this State.

Hon E.J. Charlton: They most certainly are and will always be while you mob treat them the way you do.

Hon JOHN HALDEN: The record does not suggest that we acted in a racist way. The record is clear about the Government's behaviour.

Hon E.J. Charlton: You did it every day.

Hon P.R. Lightfoot: Your land rights position is based on race, is it not?

Hon Kim Chance: It is based on the cessation of ownership.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon JOHN HALDEN: The Premier did not stop at that point. Do members remember the infamous Premiers' Conference when he went to the Press on the national stage?

Hon N.D. Griffiths: It was only infamous because he was there.

The DEPUTY PRESIDENT: Order!

Hon JOHN HALDEN: He sought the support of the other Premiers to oppose the federal legislation. The other Premiers, apart from two, one of whom was the Premier of South Australia, deserted him in droves and could not accept the illogical and illegitimate position he was putting forward. Basically he was laughed at. He was a joke. Members will remember the picture of the Premiers' Conference rooms with his documents on Mabo scattered around with no-one on the national stage with any credibility prepared to look at that claptrap. No matter about their own quite legitimate concerns they would not go to those depths. The Premier continued to maintain that 80 per cent of this State would be subject to and claimable under the Mabo decision.

Hon P.R. Lightfoot: That is true.

Hon JOHN HALDEN: I heard the Minister for Lands probably accept the opinion that it was 30 per cent.

Hon George Cash: Thirty five per cent is vacant Crown land. However, until such time as we have a decision from the Commonwealth in respect of pastoral leases, we have to add 38 per cent to that.

Several members interjected.

Hon JOHN HALDEN: There is a bit of misunderstanding. I will come to that in a minute. I am glad it is on the record. The Minister for Transport commented that Aborigines are in the state they are in because of people like us. Consider what happened and what was been perpetrated by this Government compared with the comments of the Prime Minister -

Hon P.R. Lightfoot: He is insane.

Hon JOHN HALDEN: It takes one to know one. The Prime Minister said that the court described the situation faced by Aboriginal people after European settlement. He said that the court saw a conflagration of oppression and conflict which was over the following century to spread across the continent to dispossess, degrade and devastate the Aboriginal people. He then quoted from the court's judgement and said that they faced deprivation of the religious, cultural and economic sustenance which the land provides and were left as intruders in their own home.

Hon E.J. Charlton: What will the Eastern States do, Mr Halden? How are Aborigines there to get their land back?

Hon JOHN HALDEN: Attempting to destroy native title was to deny history. The Minister for Transport babbles on, denying history and reality.

Hon E.J. Charlton: How will Aborigines get their land back? The only chance they have is in Western Australia.

Hon JOHN HALDEN: To deny those facts would be to deny part of ourselves as Australians. The Prime Minister went on to say that this is not guilt. It is recognising the truth about the past and equally the truth about contemporary reality. He went on to underline that it is not a symptom of guilt to look reality in the eye - it is a symptom of guilt to look away, to deny what is there. To deny the reality that native title existed is exactly what the Government did that night.

Hon E.J. Charlton: You did not answer my question.

Hon JOHN HALDEN: I will not.

Hon E.J. Charlton: You are gutless and you cannot.

Hon JOHN HALDEN: Court went on his merry way. He said that Aborigines should be able to secure native title by referendum. He advocated that we intrude on the rights of Aboriginal people in our community in a very different way when we acknowledge title of land in this country. For Aborigines it was all right to do that but not for anybody else. Was the Premier not warned? I do not want to go back to *The Weekend Australian* of last Thursday where the editorials of the past were detailed so eloquently to point out the folly of the Premier.

Hon P.R. Lightfoot: They were geniuses of hindsight.

Hon JOHN HALDEN: They were contemporary geniuses. An interesting editorial was that of *The Weekend Australian* of 13-14 November 1993 which reads -

Scepticism about Mr Court's Bill can only be deepened by his contradictory statements on the High Court judgment. Only four months ago he would have none of the judgment, saying its logic "was fatally flawed". He said it was illegitimate and should be overturned by referendum. This month, however, he announced that his Bill "recognises" the judgment. His Government even boasts that its Bill, and not the Federal Government's, will reflect the "true spirit" of the judgment.

... Mr Court's Bill tries to capture any native title within Western Australia stature and then relegate it to second class status.

Sitting suspended from 6.00 to 7.30 pm

Hon JOHN HALDEN: I will encapsulate what I was saying about the antics that took place in this House in November 1993. They can best be summarised by the comment that the Land (Titles and Traditional Usage) Act was the final insult. The original definition of "traditional usage" in that legislation was eventually watered down. The Minister was given most of the discretion in that matter and to the extent that the courts might intervene, their powers - in the most extraordinary way, given the alleged separation of powers - are sought to be fettered by the Minister.

No-one can suggest that the Land (Titles and Traditional Usage) Act was in the interests of all Western Australians as has been suggested tonight and by the Premier on many occasions. That legislation was a deliberate attempt to downgrade native title and, more importantly, to yet again use the powers of the State against the Aboriginal people. I said earlier that it has been a very sorry historical process and I am sure it is regretted by everyone in this House. It is on those issues that we talk with the wisdom of hindsight. Many of the decisions that were made were paternalistic and considered to be in the best interests of the Aboriginal people. However, with the wisdom of hindsight that has been shown not to be the case.

The comments I have made about this legislation and the antics that took place in this House in November 1993 are not made with the wisdom of hindsight. I suggest to members opposite that they read what Hon Peter Foss and Hon Ross Lightfoot said during that debate and, more importantly, read what Opposition members said. It is not wisdom in hindsight. Opposition members' comments on that legislation were contemporary, valid, appropriate and on the mark. The main comment was that the High Court would strike down the legislation as being invalid. It was not a situation of the State Bill breaching the federal Native Title Act, or Bill as it was then, but that it ran contrary to the racial discrimination legislation.

I return to the comment I made when I commenced my speech: The day the State legislation was passed was the sorriest day for this place and it in no way reflected positively on the Government. However, the Premier still tries to avoid the consequences of the High Court decision. There is no greater example of that than the Premier's comments on a recent edition of "The 7.30 Report". He tried to suggest that the State legislation is merely inoperative by virtue of the High Court decision. It is not inoperative; it is invalid and it was struck down by the High Court. I have no doubt that the High Court reached the conclusion that the rights of traditional usage under the Western Australian Act fell substantially short of the rights and entitlements conferred by the Federal Act. The Premier claimed on the same program that the rights under the State legislation were not inferior. Earlier this evening the Minister for Transport uttered the same stupid lines, but that is not the case.

We have reached the situation where we must look to the future. What will the State Government do? Two years have been lost because of the antics of November 1993. Other State Legislatures have headed down the path of resolving this complex issue. What has occurred in this State? It has not headed down that path. What members did in November 1993 was to pass a piece of legislation that wasted millions of dollars of taxpayers' money, caused great uncertainty in the business and resource community and resulted in a waste of time in resolving the issue. What are the options? A piece of State legislation is required to place native title in the hierarchy of titles that have been developed.

Other States and other parties have already passed such legislation. We should look at legislation that will perhaps establish a state tribunal. Such a tribunal is essential, but I do not hear those who always defend the issue of States' rights and promote the necessity for the States to be involved saying at this time that there should be a state tribunal. When is that to happen? There is no doubt that the federal Act sets up the framework for the native titles system; it sets out minimum conditions. However, it is not only desirable but also necessary that States pass their own legislation to fill in the detail and to deal with all the issues.

Some States have already acted and passed legislation; Queensland and South Australia have moved to set up their own native titles tribunals. In Queensland, native title will be dealt with by the Mining Warden's Court, with an appeal to the Supreme Court. In South Australia, it will be dealt with by the Environment, Resources and Development Court, again with an appeal to the Supreme Court. The Western Australian Government has always known that it would have to introduce its own legislation to set up a Western Australian native titles tribunal. Has it done so? No. Instead, it made a deliberate decision to launch an attack on the federal Act, an attack which it knew would fail because its own Crown Law advice told it it would fail. The Government's own legal advisers told it what would happen. One wonders about the quality of the advice the Government receives from Hon Peter Foss, particularly based on some of his comments in this House. I suggest that such advice would be particularly mediocre, to be generous.

Hon N.D. Griffiths: You are a very generous man.

Hon JOHN HALDEN: Political advantages were to be gained from that decision to launch an attack on the federal Act and they were taken by the Government. It took political advantages in this Chamber, as did its backbenchers.

Considerable legislation in this area is needed to qualify where native title will fit, how it

will work and how it will be consistent with the federal legislation. It will take time to achieve this and it will cause uncertainty. Nevertheless, I remember the day after the legislation was passed in this Chamber when I made a speech and said that elements of the mining industry were concerned about what the State Government had done. I can remember those opposite saying that I did not know what I was talking about, that the legislation was the greatest thing since sliced bread and that the mining industry was superbly happy with it. That was not the tenor of the telephone calls I had been receiving. General concern was expressed to me by the mining industry about what had happened. The Government did nothing to ameliorate those concerns. Rather, the Government decided to go down the path of political stunts; one stunt upon another, and all with the ultimate object of rendering native title invalid in this State. That was done in spite of what the High Court had decided and in spite of the Racial Discrimination Act, which everyone knew was in place and which both political parties throughout the country supported when the legislation was introduced into the Federal Parliament in 1975. Such were the inconsistencies of a political party which supported that racial discrimination legislation in 1975. The coalition parties in this State passed a piece of legislation which is an absolute affront to the Racial Discrimination Act.

I hate to say it, but I think that is indicative of where the Liberal Party has moved since 1975. Once upon a time those opposite did have a view on the social matters affecting the most disadvantaged people in our community, but today their political ideology has moved significantly. Perhaps the ideology of every member opposite has not moved, but that of the vast majority of them has moved towards the ideology of Hon Ross Lightfoot. Can members imagine that member's view being the consensus view of members of the Western Australian Liberal Party?

Hon N.D. Griffiths: I think it is.

Hon JOHN HALDEN: By deed, by action and by word I think that has been shown to be the case. Let us consider what Hon Ross Lightfoot said on the night this Chamber passed the legislation, because it needs to be restated.

Hon N.D. Griffiths: He and Senator Crichton-Browne.

Hon JOHN HALDEN: Senator Crichton-Browne is particularly clear about a whole range of things. It is becoming clear what he is up to.

Mr Lightfoot said that Western Australians had been very generous to Aborigines and should not go on a guilt trip; we should not be a bunch of bleeding hearts and we had done enough for the Aboriginal people. No objective assessment of any sort of history or reality could possibly suggest that to be the case. We have gone down a path which is a sorry indictment of this House. This process has highlighted that.

Hon Tom Helm: And then they have the cheek to blame someone else for their inconsistencies and the uncertainty.

Hon JOHN HALDEN: At the end of the day, so many smokescreens have been put up by the Government that for the Minister for Transport to suggest what he did tonight is to highlight again the Government's hypocrisy.

Undoubtedly this is complex legislation dealing with a complex decision, made that way by the High Court quite deliberately when it was not explicit in some parts of its decision. The High Court allowed for some flexibility and scope for the implementation of its decision. Problems attach to the decision and we will probably need to make changes to the legislation, but that is not an excuse today for what we did here - to invalidate native title. What we attempted to do here was to contravene that decision. This is complex legislation and special consideration will need to be given to land titles granted to various people in this State. We will not get that far until such time as the Government starts to work on the process of legislation. We must assist the mining industry with certain types of exploration which may not impact upon native title or which may have minimum impact. Will we allow geological surveys carried out by aircraft which may have minimum impact on native title? Will we allow for certain speed-up mechanisms to assist the resources industry, the sector which this party opposite

purports to represent most aggressively? Since the High Court decision, basically all we have had is a variety of claptrap statements from a Government which does not know what it is doing specifically about this matter. These matters need to be addressed, because if they are not, the consequences of November 1993 will fall upon the resource industry. Today the Government is mute. Native title has a significant impact on the Torrens system of land registration, but what is the Government intending to do about that; where does that fit in? To date, no word. Many complex issues need to be resolved, but one would hope that the Government could address, negotiate and consult about these issues with a broad array of interest groups in this State. There is no point in doing the little stunts that happened in this place 15 or 16 months ago. That will not work. There is no way that can happen. Time is now of the essence. There needs to be a constructive response by the Government. We need to get away from cheap political point scoring and also from saying that this is a federal-state fight. The reality is that the Government made it a federal-state fight and it lost 7:0. It is now incumbent upon the Government to stop that stupidity and, to quote the Government's words, put forward legislation in the best interests of all Western Australians and not some proportion of Western Australians.

I have concentrated significantly on this matter in my Address-in-Reply speech but I do not wish to resile in any way from my statement that that stunt or tactic - call it what we like - in this House was the most infamous, stupid and blatantly wrong stunt that I have ever seen. Its impact upon the credibility of this House is significant, and unless those opposite stop advocating the line that this is a House of Review and start demonstrating it in reality, we will be destined for abolition. If that is what government members want, they should keep behaving the way they are because that is the way we will go. I will not continue forever because it could be said that I am gloating and I would not want that to be said. I only want it on record that some members opposite purport to know all. The Minister for the Environment in hindsight knew very little but took us down a dangerous and costly path.

I turn now to education. During question time today I had the opportunity of asking the Minister for Education some questions and he responded in the normal way; that is, he wanted to blame someone else for everything in his portfolio. It was Pam Beggs who wrote a report.

Hon N.F. Moore: She wrote a report that was accepted by your Government.

Hon JOHN HALDEN: Exactly; she wrote a report. She was not the Minister. The Minister will eventually have to take some responsibility for his portfolio.

Hon N.F. Moore: I have not increased the fees since I have been Minister.

Hon JOHN HALDEN: The Minister has, and it has happened there.

Hon N.F. Moore: I have not increased the fees that have been set since Pam Beggs wrote the report.

Hon JOHN HALDEN: I will let the Minister make his speech.

Hon N.F. Moore: Year 7 students at Ballajura pay secondary fees.

Hon JOHN HALDEN: I suggest to the Minister that it is most inappropriate that any primary school age child in this State should pay an amenity fee of \$215.

Hon Doug Wenn: Is there not free education?

Hon JOHN HALDEN: Indeed. The Education Act sets out that it should be \$9 for the first primary school age child and \$3 for every subsequent child. I do not care whether the Minister calls it devolution or whatever. To allow a government school to charge \$215 for year 8 to 10 students is immoral. It is the top end of fees charged for secondary students.

Hon Derrick Tomlinson: Is it referred to as an amenity fee or a fee?

Hon JOHN HALDEN: It is called an amenity fee.

Hon B.M. Scott: It is a non-compulsory amenity fee.

Hon JOHN HALDEN: That is where members opposite are wrong again. It is non-compulsory until the bailiff comes to collect it. It is non-compulsory, but the school will not give the child photocopies that are handed out and it will not allow the child to go on camps. It discriminates against the child for those reasons. The Minister should not tell me it does not happen.

Hon N.F. Moore: Are you saying it has happened just in the last two years?

Hon JOHN HALDEN: I am not saying that at all. I am saying that the practice is becoming more widespread. I do not care when it happened. It was immoral then and it is immoral now.

Hon N.F. Moore: Read Vickery and find out why that happened. You cut back school money dramatically.

Hon JOHN HALDEN: I will get to the Minister about cutting back school money dramatically. Let us deal with this issue. It is immoral in terms of \$215 per child. It is possible that a family could have two children at that school when it is completed from years 7 through to 10, so that could be \$430 for amenities fees only. Lots of high schools do not charge anywhere near that fee, nor should they. The people whom it will affect are those who can least afford it. We have a responsibility to provide a state school system that guarantees access by all children. Why else have it? Why not just privatise it? The Minister has gone down that path in other areas and would surely like to go down that path here. We have a situation where we have an Act and regulations. I think the Minister actually believes in the system. I do not know that he knows how to manage it; I am sure he does not. The situation is intolerable at this point.

Hon Doug Wenn: How does that fit in with the Attorney General's statement that if you do not pay you will lose your licence?

Hon JOHN HALDEN: It is a fine. That might be the next move.

Hon N.F. Moore: Talk to Kay Hallahan about how she ran the show. Nothing is any different now.

Hon JOHN HALDEN: Yes it is. For year 7 students it is \$215.

Hon N.F. Moore: They are the first students to attend that high school.

Hon JOHN HALDEN: The Minister said in question time today that it had the resources of a high school. One would think that the resource of a library would be a requirement for a \$215 amenity fee. It does not have a library. It uses the community library because the school was not built with enough classrooms so it uses the library for a classroom.

Hon N.F. Moore: Do you know who planned that school?

Hon JOHN HALDEN: The Minister is responsible at the end of the day.

Hon N.F. Moore: I accept the responsibility, but I did not plan it.

Hon JOHN HALDEN: Everyone else is responsible but not this Minister. It is amazing. We have heard it in this place day in and day out.

Hon N.F. Moore: I do not accept responsibility for what your Ministers did.

Hon JOHN HALDEN: The Minister may not accept it, but he is responsible now. If the school needs more classrooms, the Minister is responsible for providing them. It does not matter who planned it three years ago. The Minister is responsible. Basically the community is sick to death of hearing this Minister blame the Labor Government, the bureaucrats, or somebody else. The Minister has driven people to the end of their tolerance.

Hon N.F. Moore: That is what you would like to believe.

Hon JOHN HALDEN: The Minister should come into my office and I will show him the letters. They warm the cockles of my heart every time I read them because people are sick to death of the Minister either not meeting with them, pushing them onto somebody else or blaming somebody else. In every comment the Minister makes he blames

somebody else. According to this Minister of the Crown he has done nothing; everybody else made the decisions. He has spent \$1.2b in taxpayers' money in education, but has not done anything; somebody else has had the responsibility. It is absolutely appalling. At least the Minister for the Environment accepts responsibility for something occasionally, but not the Minister for Education. In question time today the Minister said that the Hoffman report's proposed devolution was our fault.

Hon N.F. Moore: I did not say that, you dopey fellow. I understand your response to it.

Hon JOHN HALDEN: The Minister said that in my comments about the Hoffman report I had the temerity to say that the first round of devolution was about a contraction in the education budget.

Hon N.F. Moore: It is saving money.

Hon JOHN HALDEN: I accept that.

Hon N.F. Moore: It is about time.

Hon JOHN HALDEN: I wrote the document.

Hon N.F. Moore: I do not think you understand it. You would have put a line through this bit. One of your lackeys would have done it. I do not think you understand what is in the document. If you understood it, you have gone in absolutely the opposite direction to that of your predecessors.

Hon JOHN HALDEN: The Minister thinks that I must accept everything my predecessors did. The Minister has to understand one thing about me, as most members on this side do: I decide the education policy for the Australian Labor Party today. When I am not the shadow Minister, somebody else will.

Hon N.F. Moore: That is a real shame for the Australian Labor Party.

The PRESIDENT: Order!

Hon JOHN HALDEN: At this time I will decide what it is, in conjunction with Caucus and my shadow Cabinet colleagues. I will not be responsible for the deeds of my predecessors. I will comment objectively upon those decisions far more than the Minister for Education will. I will accept responsibility for what I do. The Minister cannot do that. I take great exception to the Minister's suggestion that I did not write the document. I assure him that I wrote every word in this document. It addresses the issues in a fair and reasonable way. I do not back off from the point that devolution, as introduced by the Australian Labor Party in Government in 1987, has as an element of cost reduction; but I say to the Minister very clearly that devolution as proposed by Dr Hoffman, and that which may be proposed by the Minister if he goes down that path, will have far more significant cost reduction elements than devolution in the first phase. It will have a far more significant impact upon education costs in this State than will be achieved in the first round.

Hon N.F. Moore: It will save lots of money.

Hon JOHN HALDEN: It is about saving money.

Hon N.F. Moore: It is not all about that. If that is the case, the money will go somewhere else within the education system.

The PRESIDENT: Order! I will not tell the Minister again to stop interrupting.

Hon JOHN HALDEN: I agree with certain parts of the Hoffman document. I suggest that some parts are worthy of support. Irrespective of whether I sit on this side or the other side, I will support them until such time as somebody convinces me to change my mind. Some parts of it I will never accept. Some parts cause great concern not only to me but also to those involved in the education industry, either teachers and parents. There is a need for greater clarification from Dr Hoffman about what will happen.

The first principal of devolution is that of self-determination. There is no self-determination in this process. It will happen in one of the forms suggested. There will be a significant shift in responsibility for education from the State to the community.

One of the principal views is an effort to transfer costs on that basis. Let me read from my report. I will tell the House what the principals say. This is not a group of people who support the Liberal Party or the Labor Party; it is a group of professionals who the Education Department had surveyed by academics to ascertain their perceptions about what had happened to devolution until today. It states -

There can be little doubt that the *Hoffman Report* has a central premise that student learning outcomes will improve as a result of devolution. However 91% of principals surveyed by *Chadbourne and Clarke* said in 1994 they doubted that the first phase of devolution had resulted in improved student outcomes. Nothing in the *Hoffman Report* details or quantifies how the second phase will improve student outcomes, except that improved supervision and measurement techniques of teachers, principals and schools will achieve that end.

The *Chadbourne and Clarke Report* also found that only 8% of principals thought that since the first phase of devolution there had been a reduction in inequalities between schools. There is nothing in the *Hoffman Report* that explains how the new phase will reduce the existing inequalities. Further, only 15% of principals believe that since the first round of devolution, schools had a clearer sense of purpose.

Since the introduction of devolution 97% of principals believe that their administrative workload has increased significantly, and only 11% believe their capacity as an education leader has been enhanced. Further, 84% of principals believe that it was unacceptable for devolution to proceed until further attention had been given to their workload. *Hoffman* does not address this particular issue.

They are particularly pertinent points in the administration of education. What does Dr Hoffman do about those issues? What does the report say about resource allocation? What about the increased administrative load on schools? It does not give anything in a specific or committed way. At the end of the day there will be far more work at the community level and less in central office, as per the Report of the Independent Commission to Review Public Sector Finances, the McCarrey report. What was that report about? It was about reduction of costs to the State. The report further states -

Hoffman also seems to have failed to address some of the other concerns from *Chadbourne's Report*. Ninety-five percent of principals wanted greater emphasis across the system placed on teaching and learning and not on operational matters.

What does Dr Hoffman concentrate on? He concentrates on operational matters. The report continues -

On the issue of funding there was a belief by only 17% of principals that the funds provided since 1987 had been adequate to cover the increased functions and responsibilities. What is more, 96% of principals believed that additional functions should not be given to schools unless properly resourced.

Of the same group of principals, 97% believed that equity for disadvantaged schools should be guaranteed before school staff selection was introduced. In both the above areas *Hoffman* provides no guarantees and it is now incumbent upon the Minister to clarify this matter.

School development plans are a key facet of the *Hoffman Report's* attempt to ensure that a quality education is provided in Western Australian schools. However, 100% of principals in the *Chadbourne Report* said that any judgement of a school's accountability should go beyond an examination of school development plans, and only 36% of principals believed that school development plans were currently improving student learning outcomes.

I could go on and quote myself or Chadbourne or whoever else. There is grave concern at that level about what is being proposed. I spoke to Dr Hoffman in a somewhat uncomfortable environment about what is being proposed. He spoke to me about the number of submissions in response to the discussion document - I do not know whether that was the official title. The majority input from the community was that people were

concerned and did not want to go to the second phase. They definitely did not want to go for this quantum leap proposed by Dr Hoffman. We must look at these situations. We have a responsibility to provide a quality education to all students throughout the State as far as is practicable. I am not a purist in that. I do not want to be stupid about how far one must take that.

On reflection, the Minister's comments that I could not have written this document and that it must have been written by my advisers is probably complimentary. I do not have an adviser on education matters: I am not resourced to anywhere near that degree. Members opposite may recall what being in Opposition is like. I repeat that every word in that report is mine. It was written and typed by me. The only thing that was not done by me was the photocopying of it.

Hon Derrick Tomlinson interjected.

Hon JOHN HALDEN: I called it "Devolution with Equity". It is a response from the Australian Labor Party.

Hon N.F. Moore: It contains big words; more than four letters.

Hon JOHN HALDEN: The Minister carries on in this particularly childish way when we are dealing with something of significance. His most significant effort is to blame someone else -

Hon Sam Piantadosi: There's always a scapegoat.

Hon JOHN HALDEN: - or to run behind the coat-tails of somebody else. Let us turn to the current teachers dispute. Where has the Minister for Education been in this dispute? He has not been seen; he is in the bunker. He has sent out a particularly incompetent chief executive officer to resolve this dispute. I am sure he will show this document to him tomorrow; I hope he does.

Hon N.F. Moore: How do you describe him?

Hon JOHN HALDEN: Incompetent. In-com-pet-ent. Does the Minister have that? I have never seen a person more inclined to inflame an industrial dispute by virtue of his faxes than this man. I have never seen anyone so incompetent, so insensitive and so brutal to the point of absolute stupidity.

Hon Kim Chance: He went to the Kierath school of industrial relations.

Hon Tom Stephens: He is probably just passing on the messages from Minister Moore.

Hon JOHN HALDEN: If he is silly enough to do that, that is his responsibility as well. Where has the Minister been? Let us recall the first statement the Minister made on 1 February.

Hon N.F. Moore: Talk to the president.

Hon JOHN HALDEN: I have had that meeting reported to me lock, stock and barrel - word for word. On 1 February the Minister made one public statement that this industrial action was having no effect and would have none.

Hon N.F. Moore: I didn't say it wasn't having an effect. I said I didn't believe it would have an effect.

Hon JOHN HALDEN: I am sorry; I must have misquoted the Minister at some extreme point.

Hon N.F. Moore: You just did.

Hon JOHN HALDEN: Then the Minister said that it would have little effect or no effect.

Hon N.F. Moore: That was my view at the time.

Hon JOHN HALDEN: How out of touch is this Minister? No effect? Has the Minister received the same number of faxes as I have on this matter? He may have received many more. What is the commonality about those faxes? They call upon this Minister to come out of his bunker and resolve the problem. What does he do? He is never to be seen

because he blames somebody else. At the end of the day if this does not work out he will blame the chief executive officer.

Hon Sam Piantadosi: He'll say, "It wasn't me."

Hon JOHN HALDEN: "It was not me; it was you, Greg. You made a mistake."

Hon N.F. Moore: You just told me he was incompetent.

Hon JOHN HALDEN: He is. I am not suggesting that he is incompetent on every issue; however, on this issue he has shown absolute, sheer, insensitive incompetency. The Minister has a responsibility under the Act to resolve this industrial problem: He has a duty of care. What have been his efforts? We have heard no public comment. The Minister met with Mr Lindberg, at which meeting I understand he telephoned Treasury to see how much money was available, but was told there was none. He said there was nothing he could do to resolve this matter.

Hon N.F. Moore: That is not true. Who told you that?

Hon JOHN HALDEN: Has the Minister met with the executive of the State School Teachers Union - the group to which he refers repeatedly in this place as troglodytes. My understanding is that he has not. The last meeting on this matter between the Education Department and the SSTU to discuss industrial matters within the department was cancelled. Is this a new industrial dispute that the SSTU has suddenly brought upon the Minister? No; it has been around for over 12 months. The Minister has sat on his hands for all that period.

Hon N.F. Moore: To try to pay back the debts you gave us.

Hon JOHN HALDEN: Here it is again. We will blame somebody else. It is consistent!

Hon N.F. Moore: It is a fact of life. You would pretend that the last 10 years never happened.

Hon JOHN HALDEN: The Minister says that it is Pam Beggs or it is WA Inc; that it must be somebody else.

Hon Sam Piantadosi: He says, "It wasn't me, Norman Moore."

Hon N.F. Moore: It was you.

The PRESIDENT: Order!

Hon JOHN HALDEN: It is amazing. As I raise the issues he will always say that they are somebody else's fault.

Hon N.F. Moore: In this case it is.

Hon JOHN HALDEN: Unfortunately we work in a system which says that the Minister is ultimately accountable. The Minister made reference to funding cuts and my honesty about devolution when I said in 1987 that one of its aims was the reduction of funding to education.

Hon N.F. Moore: I thought it was very brave of you to admit it.

Hon JOHN HALDEN: The facts are there, Minister.

Hon N.F. Moore: But your Ministers didn't admit it.

Hon JOHN HALDEN: The facts are there, just as the facts show that the Minister does not have the courage nor the ability to resolve the SSTU dispute. He does not know how to do it; it is beyond his skills. He is like the CEO - incompetent.

Hon N.F. Moore: I don't have the money. Do you know why? You guys spent it all and then you borrowed some more.

Hon JOHN HALDEN: Here we go! The state Treasury is flush with an extra \$250m and this Minister says that he does not have any money. This is the Minister who in last year's Budget cut recurrent and capital expenditure to the Education Department in a year in which the Treasury was flush with money. I asked the Minister a question on notice to confirm the figures of approximately \$2m and \$4m in those areas. The Minister

did not have the courage to even answer the question and did not confirm or deny the cuts. He basically said that I had an interesting theory. The great difficulty is that I have the Treasury document which confirms that and tells the Minister how to explain it in the community.

Hon N.F. Moore: Why don't you table it?

Hon JOHN HALDEN: I will; I will get it.

Hon N.F. Moore: Would you please? You might also get the stolen document you have been peddling to the journalists.

Hon JOHN HALDEN: I will get all the gear.

The PRESIDENT: Order! I will not allow the Minister for Education and the Leader of the Opposition to carry on this private conversation. I want the member to address the Chair and to stop talking to the Minister.

Hon JOHN HALDEN: It is one of those rare opportunities that anyone has to talk to the Minister, but I accept your ruling, Mr President.

The PRESIDENT: Order! When I ask Hon John Halden to do something, I do not want him to start an argument with me, because he probably would like to finish his speech.

Hon JOHN HALDEN: I would, indeed. If the Minister wants the document tabled, I will happily table it. I suppose that will mean, as it has in the Department of Transport, that the police and handwriting experts will be brought in. The Minister cut the recurrent and capital works budget of the Education Department last year in spite of an absolutely flush Treasury. What new initiatives were in the Budget for education? There were no significant increases whatsoever.

Hon George Cash: At least we can't be accused of tacking.

Hon JOHN HALDEN: No, the Minister could never be accused of tacking. There was definitely no new policy; it was very simple.

I am waiting now to hear who is responsible for this situation. What about the reduction in cleaning and gardening staff? Someone must be responsible for that. Most metropolitan primary schools of any size had a gardener. There is now a mathematical formula which says how much of a gardener a school can have. Schools that once had a gardener now have between 0.4 and 0.7 of a gardener. However, schools that have large numbers of students have 0.4 of a gardener when similar size schools have 0.7 of a gardener. There is little rhyme nor reason for that happening. However, the consequences for the schools are that their grounds become rundown.

Hon N.F. Moore: Like the buildings.

Hon JOHN HALDEN: Do not worry, I am getting to that. I have only 23 things on this list and that is one of them. As well as the grounds being run down, gardeners rarely do minor maintenance jobs because they are not at the schools long enough to do any of those jobs.

Hon N.F. Moore: Who told you that?

Hon JOHN HALDEN: Only about 200 gardeners. However, the Minister would not have spoken to one lately. Schools now have to pay for those minor expenses out of the school budget where once they were done by the gardener.

Complaints continue to roll in that teachers and students now have to clean up after themselves. The quality of school cleaning and ultimately maintenance is dropping as is the security of the schools because cleaners are no longer there. Because of these new formulas, a whole range of subsidiary benefits have decreased. I have no problem with the Government's attempting to achieve efficiencies. However, they are not occurring at the moment because the harshness with which it has implemented its policy does not allow for those efficiencies. A gardener attends for two days a week a primary school in the northern suburbs with grounds covering approximately 4.2 hectares. What happens in the summer time when the gardener does not go to the school for four consecutive

days? With 500 students running over the grounds, they dry up and become a sandpit. What has the Minister or the department done? Very little or, in that case, nothing.

In relation to school maintenance, I remember the Minister coming in here shortly after the Government was elected and telling us that we had run down the schools in this State to the extent that it would cost \$400m to solve the maintenance problems.

Hon N.F. Moore: It was not maintenance; it was bringing the system up to a reasonable level of facilities.

Hon JOHN HALDEN: The Minister said it was maintenance. I have the quote.

Hon N.F. Moore: I did not say that. The backlog is about \$46m.

Hon JOHN HALDEN: Again, we will have to blame somebody else for that!

Hon N.F. Moore: I know what I said because I said it.

Hon JOHN HALDEN: We will have to blame the way it was reported, then.

Hon N.F. Moore: We can do that.

Hon JOHN HALDEN: I am sure the Minister will. However, I understood the Minister's advice was that, to keep maintenance up to date, the Government would have to provide about \$40m each year.

Hon N.F. Moore: Or thereabouts.

Hon JOHN HALDEN: Has it done that?

Hon N.F. Moore: No.

Hon JOHN HALDEN: In spite of the accusation that it was our fault and that was the figure needed to keep maintenance up to date, what has he done? He has not achieved that.

Hon N.F. Moore: Because we have not borrowed the money, like you did.

Hon JOHN HALDEN: He is the Minister. I do not care who he blames but he is not blaming me. I am telling the House where the administration of the Education Department is at at this moment. The department established a minimum figure and it has not kept to that. That is no-one else's fault. That is a decision that he and his Cabinet colleagues have made.

Hon N.F. Moore: Do you know why the figure is so high?

Hon JOHN HALDEN: There is a range of reasons. However, the situation needs to be looked at on a case by case basis to understand the enormity of the problems in this area. It is a problem that the Minister highlighted and the Minister is slowly being hoisted on his own petard.

I have been in contact with 130 schools about the maintenance problems they face. A total of 62.31 per cent of those 130 schools say they have urgent maintenance requirements. One of those schools is the Esperance High School. The Minister went there and said it was terrible and outrageous that a Labor Government could have treated that school so badly. What has he done? Has he spent a cent there? No, he has not. It is so bad that I received a phone call from the school staff telling me that a pane of glass had fallen out of an open window on the second floor with students walking underneath. The Minister knew that. He made a big hero of himself, blamed someone else and did nothing about it. No-one would suggest that the electorate of Roe is a Labor stronghold by any stretch of the imagination. In fact, the Labor Party candidate comes third. However, so outraged was the P & C Association over the Minister's duplicity in this matter, following his making a big man of himself and blaming somebody else for what has happened at that school and then doing nothing, the school through the principal asked the P & C to purchase three stoves and a Gestetner machine. The P & C, based on the Minister's actions, refused. It said that if the Minister could go down there and make a big man of himself and then do nothing, it would not offset the Government's spending money on capital equipment by purchasing the equipment itself. I have a copy of the

letter. It is somewhere in the Minister's department and he should look at it. They were very impressed by the Minister!

I try to work those schools as much as possible to understand their problems. The Minister should do the same. How many of the schools have capital works requirements?

Hon N.F. Moore: Probably about 600 of them.

Hon JOHN HALDEN: I am referring to urgent capital works. A total of 66 per cent of the 130 schools require urgent capital works.

Hon N.F. Moore: There are 800 schools just so you get the right figures.

Hon JOHN HALDEN: The Minister is probably right. However, he came in here and said that there was a huge backlog that he would fix and he has done nothing.

Hon E.J. Charlton interjected.

Hon JOHN HALDEN: I am not sure what that interjection was but I will ignore it because I am sure it was inane.

Nearly 20 per cent of schools in the survey said that they were using as classrooms wet areas and other areas that were never designed as classrooms because there was no other option for them. Approximately 75 per cent said their cleaning numbers had been reduced and that that was causing them light to significant difficulties. I concede that the Government cannot resolve all of these matters. The difficulty is - I guess that we all have to be careful of this in politics - that we cannot raise expectations and then not meet those expectations. What is worse is to not take some responsibility for one's actions, particularly as a Minister of the Crown.

I refer now to an issue to which I think the Minister must pay significant attention; that is, children with disabilities and learning difficulties. There can be no issue that causes more work in my office than this. I receive a complaint a day about the Education Department's policy concerning these children. It extends from denying a child the right to integrate at a local school when he is mildly handicapped, to some quite minor resourcing issues. The area is complex. I believe that the Government and the Opposition policies on integration issues are similar. However, resources must be committed in this area. The department should not wander into, as it did last year and found it politically uncomfortable, the area of cutting resources. Resources should be delivered not only to fund research, as recommended by the Shean report, but also to the classroom for this area.

Hon N.F. Moore: That report is not just about research.

Hon JOHN HALDEN: The vast majority of it is.

Hon N.F. Moore: Talk to Dr Shean herself.

Hon JOHN HALDEN: The big difference between the Minister and I is that I talk to people on the ground. I am happy to talk to Dr Shean; but on the ground, insufficient resources are provided. Children who are mildly disabled are being placed in facilities for severely handicapped children. In the first three weeks of this year a child who was mildly handicapped was transferred to three different schools, eventually ending up at one for severely handicapped children who were non-verbal and in many cases had multiple physical handicaps. This child had physical handicaps and was mildly intellectually handicapped, but was particularly verbal. It was a most inappropriate placement and resulted in the child regressing. That situation has still not been resolved; the child is not in either a centre or a suitable placement. I have spoken off the record to people in the Minister's department who have said the child should be at the unit where the child was first placed. However, because the policy is not clear and there is not the will to not discriminate against another vulnerable group in our community, the child has been moved about like a pawn. There is no social or political will within the Education Department to guarantee this child a reasonable quality education, suitable to his needs and desires and satisfactory to his parents. The parents have spoken to me in tears every second day about this matter because they are frustrated by the department.

The Minister knows of my involvement with a child in Yarloop, a small community in which, again, a child with disabilities will in every likelihood grow up and die. The school, the teacher and the community wanted the child to stay there. What was the department's sensitive response to that issue? He was given no choice other than to go down the road to Brunswick.

Hon Sam Piantadosi: Where was the Minister?

Hon N.F. Moore: We sorted out the situation.

Hon JOHN HALDEN: That woman and I went to every newspaper we could find to embarrass the hell out of the Minister and the department. He provided aides to only four students this year in the school system. I was involved with three of them and the only way the Minister and the department would respond was through my blackmailing them through the Press. There is no other word for it. We beat the hell out of them and they eventually conceded the point.

It does not end there. Many of these situations involve children in country towns. One example is where the quite severely disabled child of economically disadvantaged people, at the age of 14 in year 10, had made significant gains at the local high school. The town was Northam. The previous year that high school provided a transition year for those students where they could be involved in certain other programs. However, there was a 16 year old gap, if we like, between the two programs. Not one child, but at least three, were in the same boat. The school decided, in spite of that need and in spite of significant economic disadvantage suffered by particularly two of the families, it would not provide the program again because the funds were not available to provide the program for these three children. The solution was that the parents could take them to Perth, involving a daily trip of approximately 130 kilometres. No bus or any other provision was offered, although in fairness it would have been difficult and exceptionally expensive for the Education Department. It offered only the burden of the 130 km round trip a day to take those children to a school. In spite of representations nothing happened on that front. The burden fell back on the parents to look after the child for a year in between the gap in the systems. It is just not good enough. We cannot discriminate and fail to provide those services to this particular group of disadvantaged people. It gets worse.

At the beginning of this bracket I referred to a Down's syndrome child. His parents want him to attend the local community school which his siblings attend. However, the school is refusing to have the child. The school said to the mother today that the only basis on which that child can come into the school is under section 20 of the Education Act where, after some processes, the Minister insists. The child is mildly handicapped. I think for a short period this year it was placed at either the Gladys Newton or Burbridge institutions for severely handicapped children. Again the child regressed and, as a result, the parents rebelled. The fact that the child is handicapped does not encumber the parents' desire to achieve the best education for the child. It is not good enough - I assure the Minister that he will hear more of this in the next few days - for a school, bearing in mind section 13 of the Act, to say it will not take a child such as that. These parents are middle-class and reasonably well off. They are most definitely articulate and the Minister will again be before the Equal Opportunity Commission with regard to this matter. He may well be embarrassed. That is not the way this matter should be resolved. Surely, the community does not have to keep taking the Minister for Education before the Equal Opportunity Commission to demand access to our state educational system for children who are disabled. It requires additional resources and the Minister must address the situation. It is also a situation in which discrimination against children with disabilities cannot and should not be tolerated by the Minister or senior officers in the Education Department. I have read the report by Hon Derrick Tomlinson on rural education. In fact, I have written a response to that report.

Hon Derrick Tomlinson: I must talk to you about the way you have misread it.

Hon JOHN HALDEN: I am happy to chat to Hon Derrick Tomlinson about the report. Some of the recommendations in it are particularly worthwhile. The comments with

regard to isolation versus socioeconomic status are particularly pertinent; that is, socioeconomic status is more likely to be a barrier to educational maximisation than social isolation. I can assure the member that we will agree on that point for some time.

Hon Derrick Tomlinson: It is an irrefutable truth, so you must agree.

Hon JOHN HALDEN: I agree. Of course, the Minister could blame somebody else for it. I am concerned that I do not know how many of Hon Derrick Tomlinson's recommendations will be implemented. I thought the emphasis on principals was somewhat over the top, and more of the report should have dealt with developing an equity situation for children in country areas in low socioeconomic groups. Many are severely disadvantaged and in some circumstances a significantly large proportion of a community is socioeconomically disadvantaged. As a result of the isolation the opportunity to maximise the education experience is reduced to the lowest level. Although it is a worthwhile report I think Hon Derrick Tomlinson concentrated too much on principals; that is probably because two of the members of the committee were principals. I can see their influence had to be taken into account.

Hon Derrick Tomlinson: Not at all; I wrote every word of it.

Hon JOHN HALDEN: I know the member did not do that. The system is too good for me not to know who wrote that report.

Hon Derrick Tomlinson: Who wrote it?

Hon JOHN HALDEN: I will know when I go to my office.

Hon Derrick Tomlinson: I will bring you my copy of the report and demonstrate it.

Hon JOHN HALDEN: A number of issues need to be dealt with, and I will refer to them briefly. The Government must make a decision on its preprimary school policy. It has stagnated and stalled because the Minister has not advanced that position since the Labor Party lost government. Approximately one-third of five year old children have full time primary education for four or five days a week, and the rest receive preprimary education for half the week. The program for preprimary education for four year old children has stalled. This is not just the responsibility of the Minister for Education; his colleague, the Minister for Community Development, is seemingly stalling that initiative. Again, I do not know who to blame. Who will the Minister blame? It must be somebody's fault.

The Government has spoken about a policy with regard to school bullying, and there is no doubt of the need for that policy to be developed and announced. It was promised by the Government but it has not been delivered. The issue of bypass schools was raised in question time tonight by Hon Kim Chance. The Minister for Education provided an answer which was partly correct, but wrong for the most part. The problem with bypass schools lies with the Education Department or the Minister for Education. Of course, the Minister will blame somebody else. Again, tonight he said it was the Federal Government's fault. He was correct to some extent, but if he thinks we are silly enough not to know of the decisions made in the Education Department on this matter then he must be silly. There are many pressing issues in education. Tonight I have not touched on training and the new initiatives by the Government in that area. I will certainly do so in the next few weeks and I will take great delight in jousting with the Minister with regard to those efforts. The Minister must consider the priorities of the Education Department. I urge him in all sincerity to give immediate attention to the issue of children with disabilities and those with learning difficulties.

The Opposition is pleased to respond to the Address-in-Reply to His Excellency, the Governor. However, I hope the invitation to discuss the future of this place with the Liberal Party and the National Party is taken up, and that the education issues and some of the problems not faced by me personally, except by having to deal with the Education Department, are resolved by the Minister. In essence, the community has problems and is suffering. I understand the Minister cannot resolve all those problems, but the Government must refocus in this area.

HON KIM CHANCE (Agricultural) [8.48 pm]: I support the motion. It is common

when speaking in the Address-in-Reply debate to deal with matters relevant to one's electorate. To that extent I mention a matter in which the principal issue relates very much to my electorate, but this particular part of the issue, which is only a very small segment, is one of such profound importance to all Western Australians that I believe it should be dealt with on its own. At a time when Western Australia and the people who live and work in this State are trying to come to terms with the destructive and, in many ways, incompetent privatisation process this Government is inflicting on them, apparently with no other justification than to appease its ideological masters, we must all be particularly sensitive to the needs, rights and obligations of those who serve the State in a public capacity. Also, close attention needs to be directed to the rights of government employees specifically.

The issue I raise now relates to the practice which is endorsed by the Government - if the answer which the Leader of the House gave me in question time on Thursday is to be taken at face value - regarding government departments holding, keeping and maintaining covert files on their employees. This practice strikes at the very heart of every individual's right to liberty. It is not acceptable in a free society nor in any form of society. Worse, it enables employees' superiors not only to prejudice the employees' careers but also to deny an employee to any right to any form of defence because not only are the covert files inaccessible to the employee but also the employee has no means of knowing that the file exists.

Tonight I will be outlining a case where through an extraordinary set of circumstances one of the thousands of Government employees was able to find out that a file was kept on him. Last Thursday I asked the Minister representing the Minister for Public Sector Management a question which, to paraphrase, was whether it is consistent with government policy that the Department of Agriculture has maintained a covert file on one of its employees. The answer to the question was disarmingly frank. Frank it may have been, but the answer was one which should put a chill up the spine of every person who works for this Government - any person who has any trust in the Government as an employer. In this case I will show that the material from the covert file had nothing to do with any investigation that could be described legitimately as related to those carried out by law enforcement bodies.

I will go through part of the answer: Hon George Cash replied, in part -

From time to time it may be necessary for a department to create a file concerning an investigation into the conduct of an employee. Granting unrestricted access to such files would compromise the investigation process and would therefore be adverse to the public interest.

In other words, that is an acknowledgment that such files are kept in some circumstances. In this case, a file is held on Ian Vigar. He finally discovered that the contents of the file had nothing to do with the circumstances described in the Minister's answer. It contained highly prejudicial information which was compiled for no other apparent reason than to discredit that employee or the evidence that the employee may later give. Was this employee causing problems for the department, or did the department feel that at some time in the future it may have to defend itself from this employee? Why else was the file kept? More importantly, how many other files exist? How many other government employees have these covert files lurking in some cupboard, files which are not available to the personnel manager?

Hon Tom Helm: How can we find out?

Hon KIM CHANCE: We can get the police to issue a search warrant. How many other government employees have files kept on them that they cannot access? They have no way of knowing that they exist. This issue has arisen from a larger one which is presently before the courts. Obviously I must take care that nothing I say here will unduly affect the due process of law. Although the substantive issue has a history going back to the late 1980s, the earliest reference to the question I have before me is in a letter dated 4 May 1993 from the Department of Agriculture's chief veterinary officer, the Director General of Agriculture and two senior officers of the department. The letter

refers to the seizure by police of documents held at the Department of Agriculture, in the execution of a search warrant. Reference is made to three volumes of a personal file on a specific employee, Ian Vigar, and to two attachments. The first attachment is the search warrant, and one of the reasons for the issue of the search warrant relates to an offence of conspiracy to defraud. The second attachment is more interesting because it is in the same handwriting as the original letter. It is a list of documents taken by the police in the execution of a search warrant. One of the documents is listed as three blue files marked "I. Vigar" - the personal files of the employee. Further down the list there is another file marked "I. Vigar - Return to J Edwards", the chief veterinary officer of the department. The questions that arise are: What is in the file, and why does it exist? Mr Vigar reasonably wants to know the answers to the questions. Why should it be so difficult to find out, having stumbled on the existence of the files? That is where the story starts.

Hon P.R. Lightfoot: We were hoping that it was where it finished.

Hon KIM CHANCE: The member can treat the matter lightly. However, he is not a person who must trust this Government not to maintain a secret file on him. Many of us may have secret files; I am sure that ASIO and the CIA have files on some of us. A file being kept on an employee by an employer is no joke particularly considering the power of an employer over a person's career and future. The effect it can have on the career of Ian Vigar is something I would not joke about in any circumstance. I hope that Hon Ross Lightfoot will never be in that position.

Hon P.R. Lightfoot: I have been. That is what I am trying to say. It was no joke.

Hon KIM CHANCE: I feel sympathy in that circumstance.

On 8 December 1994 I asked the Minister for Transport representing the Minister for Primary Industry a five part question basically seeking information about whether there had been police raids on Department of Agriculture premises and, if so, when were the raids, and what was the purpose of them. Again, I received a disarmingly frank answer. Again, it was an answer which sent a chill up many people's spines.

Consider the circumstances: How many times has anyone here been aware of a government department being raided by the police? How many times do members think that the police must go to the extent of getting a search warrant to get information from a department of the same Government? Most members would not be aware of that happening. We asked a number of senior, long term government employees with considerable experience in a range of departments, and none had heard of it happening before. How many times do members think it has happened in the past two years in Department of Agriculture offices? Ten times in two years it has been necessary for Western Australian police to get a search warrant to go into Department of Agriculture offices to seize documents.

Hon E.J. Charlton: What was it about?

Hon KIM CHANCE: I will read that out because the Minister very accurately gave me the list in answering the question. It includes -

South Perth - 4 May 1993 - to obtain documents relating to an outbreak of footrot.
Geraldton - 4 May 1993 - to obtain documents relating to an outbreak of footrot.

Hon E.J. Charlton: Do you know when this issue started?

Hon KIM CHANCE: 1988 or 1989.

Hon E.J. Charlton: What did you do about it?

Hon KIM CHANCE: As a sheep owner I tried desperately to avoid it.

Hon Bob Thomas: The Minister for Transport knows what is happening and he is covering it up.

Hon KIM CHANCE: The list continues -

Derby - 9 June 1993 - to obtain documents relating to stock stealing.

Hon Bob Thomas: What are you doing about it?

Hon E.J. Charlton: Do you know what is being done about it?

Hon KIM CHANCE: The Minister is interjecting on an answer I am giving to his last interjection. Perhaps the Deputy President (Mr Stretch) would be happier if I paraphrased the incident and said that a large number of these search warrants were issued on matters either directly or indirectly relating to a footrot outbreak.

Hon Reg Davies: It is something that could affect our whole economy.

Hon KIM CHANCE: On a micro scale, individual farmers who were affected in the mid-west suffered very significant financial losses.

Hon E.J. Charlton: When did it start?

Hon KIM CHANCE: The first outbreak I am aware of was in 1988.

Hon E.J. Charlton: Remember that date, Mr Davies.

Hon George Cash: It was during the reign of terror of the former Labor Government.

Hon E.J. Charlton: It did nothing about it.

Hon KIM CHANCE: The point is when the matter was reported. It is best to leave this aside, not because I want to avoid talking about it, but the Minister is aware, as I am, that a case is before the courts.

Hon E.J. Charlton: You are running the issue of police involvement orchestrated by this Government. You are not recording in *Hansard* why it happened. You should stick to the facts.

Hon KIM CHANCE: I do not want to walk away from that. It is important not to go too deeply into that issue at this stage because the matter is before the courts. We want to avoid saying anything here that may prejudice that hearing.

Having found out about the existence of this secret file as a result of these unusual circumstances the employee sought access to it through the usual channels. On 23 November 1994 he received a response from the acting manager, personnel and management services, Department of Agriculture Western Australia stating that the file to which he referred was not a departmental personnel file and therefore did not come under that officer's control. That officer also stated that he had no knowledge of the file identified "I. Vigar - Return to J. Edwards". Most importantly of all the last sentence of the letter states that the file does not form any part of the personnel records held by the branch in respect of his employment. This is from the acting manager of personnel and management services. This is not an official personnel file. Having had that reply the employee went higher up the ladder to the executive director, animal industries, Mr John Lightfoot.

Hon P.R. Lightfoot: A fine fellow he is too.

Hon KIM CHANCE: Mr Lightfoot responded on 13 December that this document was not an official Department of Agriculture file, but rather a collection of notes and copies of letters from official files. He also confirmed that the document was held by the police. Mr Lightfoot stated that in view of the possibility that some litigation might result from the police investigation he could not personally authorise the release of the document and suggested that the employee make formal application under freedom of information legislation if he wanted to pursue the matter further.

Mr Lightfoot refers to the file containing a collection of notes and copies of letters. We do not know what those notes were about, from whom they came or about whom they relate, but the important point is that this letter acknowledges the existence of the file and that the possibility of litigation that is mentioned here would almost certainly prevent an FOI application being successful even though this is the first time that an FOI application is suggested. Shortly after receiving that response, the employee went even further up the ladder, this time to the human resources advisory services acting manager of the work force management and development office, which is in the Premier's own backyard. In that letter the employee is told that the Public Service Commissioner -

Points of Order

Hon E.J. CHARLTON: I do not want to interfere with Hon Kim Chance's contribution to the debate, but could the issue to which he is referring have any effect on possible legal proceedings?

The DEPUTY PRESIDENT (Hon W.N. Stretch): I am not aware of the case to which Hon Kim Chance is referring and I caution the member about the way he uses that information. If that advice is not satisfactory, I will leave the Chair and take further advice.

Hon GEORGE CASH: We are suggesting that any comments made in the Chamber should not prejudice an impending court case.

The DEPUTY PRESIDENT: Order! I take on board that caution and ask that Hon Kim Chance proceed with that in mind.

Debate Resumed

Hon KIM CHANCE: I thank you, Mr Deputy President, and I thank the Minister for raising the point. The matter I raise tonight lies in a very narrow spectrum of the issue. As far as I am aware no litigation is suggested and certainly none is in progress which relates to that narrow spectrum; that is, the relationship between the employee and his employer, the Department of Agriculture. It is necessary for us all to be alert to the fact that it would be easy to step across the bounds. I have taken legal advice on this from both sides, one way or the other.

Hon E.J. Charlton: It was not Mr McGinty.

Hon KIM CHANCE: No. I am satisfied that provided the debate stays within that narrow spectrum of the employee-employer relationship we should not face any difficulties. The acting manager of the human resources advisory service to the workplace management and development office wrote back to Mr Vigar. He informed him that as the Public Service Commissioner was no longer his employer the responsibility for providing that file if it were to be provided rested with the director general of the department. Having received that advice Mr Vigar wrote to his employer, the director general, on 30 December 1994. He referred to the file and wrote -

In view of the on-going civil litigation, and that further litigation may result from Police investigation, I wish to view this file to ensure there is no personal information on it that is inaccurate, incomplete, out of date or misleading.

He then laid down conditions for his request for access to this file. He said he wanted to view it at Midland Police Station and sought the director general's permission to discuss matters in the file if need be with the officers of the CIB police squad and/or the department of the Director of Public Prosecutions and also permission to copy relevant documents on the file in order to make a statutory declaration before a Justice of the Peace. The employee made it quite clear that this record was a personal record. He expressed his desire to view the document based on the possibility of litigation and he asked to view the document at Midland Police Station. On 12 January he received a handwritten response saying, "I will respond soon." On 16 January he received a response from the Acting Director General, Department of Agriculture. Mr Vigar wrote to the director general telling him he would have no need to make a repeated request to view the covert file if one police officer possessed the intestinal fortitude to grant him access. He asked if it were official policy to maintain clandestine personal files on employees and expressed the view that if the department had nothing to hide it would undoubtedly provide him with the contents of the file.

He referred also to a publication under the name of the Premier. We should remind ourselves of what the Premier said in his letter of 29 September 1994 to all Western Australian government employees. He wrote -

Part of the Government's election platform was the pledge of better, more efficient, more accessible and more accountable Government.

Following the our election, we set out to establish a more efficient and responsive public sector.

One of the steps in this process was achieved in June 1994 when the State Parliament passed the Public Sector Management Act. This Act is designed to preserve the best parts of existing public service practices, while protecting and strengthening them with a range of reforms.

He later wrote -

You and your organisation are to be scrupulous in the use of official information, equipment and facilities and exercise proper courtesy, consideration and sensitivity in your dealings with members of the public and employees.

None of that courtesy and consideration has been shown to this employee. I will be referring to some of the information contained in that file.

For a bit of light relief I will refer to another part of this document, which proves beyond all doubt that the Premier has a sense of humour. He said that Western Australian government employees together make up one of the most valuable resources of this State. This is Richard Court, the man responsible for dumping more public servants on the job market than any other man in history. Mr Vigar received a reply from the acting director general on 18 January, which was not a lot of help. It said that the file referred to was not an official personal file and contained material which did not relate to Mr Vigar and as such was subject to freedom of information legislation. He said that attached were copies of the material from the file which related solely to Mr Vigar. For the first time we have some items of the file returned to the employee. However, it again acknowledges the existence of the file and that it is not an official file but contains other material. It confirms that items relating to this employee are contained within the file. Shortly after that Mr Vigar also received a letter from the chief veterinary officer again indicating that it was not an official file and contained material which did not relate to Mr Vigar. It acknowledged that some of the information from the file had been sent to the employee, saying all the time that only information which related directly to the employee had been sent.

Quite a range of information was sent to Mr Vigar. With two exceptions those documents had already appeared in Mr Vigar's personal file, as they should have. The two exceptions are interesting. The first is simply a press cutting from the *Countryman* of 3 October 1991, which Mr Vigar had presumably sent to the principal officer of veterinary services, John Edwards, suggesting that the department lawyers have a look at the letter to the editor of the *Countryman* dealing with footrot infected sheep. That is innocent enough. Why would it appear in a covert manner in anybody else's case? The other matter is far more serious and contains highly prejudicial information in a letter from another stock inspector, who was not a superior, about the manner in which this stock inspector carried out his work. It also related to the questionable competence of another stock inspector. Therefore, two parties are involved here. This material does not relate solely to Mr Vigar but also contains material prejudicial to another employee. Two questions arise: First, why was this in that file and, second, why was it not in Mr Vigar's personal file which is where it should properly have been? Mr Vigar was never challenged with this information. Surely it is the right of every employee, and particularly a public employee, if prejudicial material is to be placed on his file at least to express an opinion on it and say, "What a load of bull-dust. I was not even there" or, "This person has had it in for me for years because I lodged a complaint about him." Mr Vigar has never seen this material, and nor has the other person who is accused.

Hon Tom Helm: Who wrote it?

Hon KIM CHANCE: It was written by another stock inspector and it went to the supervising inspector, stock. It is important that it turned up in this covert file and it is one of the pieces of information that was released. The Opposition does not have a clue about the rest of the information that has been salted away.

Hon Tom Helm: Who would have had access to the file apart from Edwardes?

Hon KIM CHANCE: I do not know that. It is interesting to note the handwritten message on top of it. It is addressed to "Alec" and the supervising inspector, stock's first name is Alec. It continues "Copy on both files please". That did not happen. It goes on to say, "After discussion with another person I am assured that both have been chastised." That is inaccurate because it did not happen. It then goes on to say, "We should monitor carefully as discussed." Discussions were going on and they were referred to in the file, but they were about a matter which might or might not have occurred. The Opposition does not know whether they occurred because the employee has not had the opportunity to comment on it.

Hon Tom Helm: Have the police seen the document?

Hon KIM CHANCE: Yes. In fact, the police have access to the whole file. When the director general replied again to Mr Vigar on 22 January -

Point of Order

Hon MURRAY MONTGOMERY: I wonder whether the issue the member is discussing runs close to sub judice. It does involve a matter which is before the courts.

The DEPUTY PRESIDENT (Hon W.N. Stretch): I am aware of the action to which Hon Murray Montgomery is referring. I will leave the Chair and take advice on it.

Sitting suspended from 9.22 to 10.04 pm

Deputy President's Ruling

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! I have had considerable consultation on the matter the subject of Hon Kim Chance's remarks. My decision is that the original matter raised by Hon Kim Chance related to the difficulties of a certain Mr Vigar in his employment with the Department of Agriculture and the records that were being kept on him in that department. There is no difficulty in discussing that subject. However, members should be aware that running very close to that subject are charges that have been laid which relate to footrot and could be impinged upon by some of the further evidence on which Hon Kim Chance was about to embark with regard to letters and further names.

I rule that the original subject is rightly a subject of debate but that the member should stay away from commenting on any other letters which in his judgment, or the judgment of the House, will reflect, or could reflect, on evidence brought before a court on the other charge relating to the prosecution on footrot.

Debate Resumed

Hon KIM CHANCE: Thank you for that advice Mr Deputy President. I thank members opposite for raising the matter. Members share a concern for a common reason that whatever we do in this place should not prejudice the trial of certain people. I appreciate the matter being raised and scrutinised to the extent it was.

On 3 February 1995 the employee wrote to the Commissioner for Public Sector Standards, Mr Digby Blight. In referring to the file and where it was held he says that he had access to his official personal file as from 21 June 1990, and again on 8 September 1994, but he had no knowledge of the existence of the other file. He goes on to say that he is appalled that the Department of Agriculture would keep a covert, unofficial personal file on one of its own employees. He says that he will not abandon his efforts to seek access because he knows that the file has impact, and he will not dignify the matter by seeking access under freedom of information criteria, which is the advice he has most recently received. He had to write once or twice in order to elicit an answer. In writing again to Mr Blight he enclosed the letter from John Lightfoot, to whom I referred earlier, and stated -

His admission that G A Robertson, Acting Director-General, inadvertently sent me documents I was obviously not supposed to get -

That is the document to which I referred earlier which contains matters pertaining to another person.

- strengthens my resolve to physically view this covert file bearing my name.

As the Director of Public Prosecutions Mr J McKechnie QC said recently, "Government departments are notoriously reluctant to admit they have made mistakes or explain things".

Ultimately, Mr Vigar received a reply from Mr K. O'Neil, executive director, standards development evaluation. Again he was advised that the only way he could have access to the file would be through the FOI legislation. Mr Vigar wrote to me on 14 March 1995 seeking my assistance to obtain details of the file. On 20 March Mr Vigar received a letter from the Minister for Primary Industry and Fisheries. The Minister, although not diverging from the line that an FOI application should be made, states -

I understand that there are grievance procedures available to you under the Public Sector Management Act. I suggest that you should consider accessing such processes should you believe you have the grounds to do so.

I do not know what are those grievance procedures. However, it is interesting that they were not referred to in any of the letters that Mr Vigar had previously written to senior officers seeking assistance. I wonder why, if they do exist, Mr Vigar was not told of them but was advised to make application under freedom of information legislation, a route which, I am sure - I cannot prove it at this stage - would have resulted in a dead end, particularly now that litigation on the matter is involved and issues relating to that litigation may well be contained in the file. However, even before that, I believe that the recommendation to use the FOI route was always made in the knowledge that it would be unsuccessful. I hasten to add that the Minister, in this letter, did not make that suggestion.

Hon Tom Helm: Which Minister gave him that last advice?

Hon KIM CHANCE: The Minister for Primary Industry.

Hon Tom Helm: That was the first letter he wrote to him?

Hon KIM CHANCE: Yes. It is the Minister's reply to Mr Vigar. It is a very brief letter, but he makes no mention of FOI but mentions grievance procedures which departmental officers had not mentioned in any of the letters that I have seen. I am sure that Mr Vigar was grateful for that advice. I am sorry we had to drag through that correspondence. I paraphrased as much as I could.

From that, I believe a number of things have become clear. Despite the Department of Agriculture's consistent denial, the covert file that it designated "I. Vigar: Return to J. Edwards" was a personal file. We know that from some of the information that was released to Mr Vigar on his application. It is proved by the nature of the items that were released.

Hon E.J. Charlton: Do you know when that file was started?

Hon KIM CHANCE: No, I do not. That may be of some political significance. I am ready to accept that it may well have been started before this Government was elected to office. The thing that concerns me is that departments keep them at all and whether Ministers are ever made aware of their existence. If the Minister were aware, there would be some form of protection. What concerns me and why I began this as a political issue is that I had to put the question to the Leader of the House representing the Premier and the Leader of the House gave me a frank answer which said that, in some circumstances - certainly the Leader of the House answered the question without knowing these circumstances -

Hon George Cash: I would have always given you a frank answer.

Hon KIM CHANCE: Yes, but in some circumstances, the Government would approve of departments keeping covert files. I hope now, having been specific about the nature of one file, the Government may want to make some statement in the future about the practice. Does that satisfy the Minister?

Hon E.J. Charlton: Yes. Facts are facts. What I do not know is, when this issue began

some years ago, why the department kept a file and why Mr Vigar did not get the department to take the action he wanted it to take and it happened only in the last year or so. The justice that he wanted to happen has now happened.

Hon KIM CHANCE: It has not. In relation to the first two questions, the Minister and I share the desire for that knowledge. The other thing that becomes clear from this is the inalienable right for any employee, public or private, to access records kept by his or her employer about that person's career and even character, to which they have been denied access.

Hon Tom Helm: Has it been determined who that file belongs to? Is it the employee's file, the department's file or is it now a Police Department file?

Hon KIM CHANCE: In my view, the file is the property of the Department of Agriculture held in custody by the police.

In the instance provided, Mr Vigar's work was strongly criticised by another employee. Why was Mr Vigar not given an opportunity to defend himself against that charge? Why was that item not kept in the official file? Why was there not a copy, if necessary, in both files, but particularly why was it not kept in his personal file to which he has the same access as any public sector employee?

Mr Vigar is clearly regarded as a troublemaker by his employer. The only conclusion that can be drawn from the keeping of the file is that it was compiled to use against him. That might be speculation. However, I find it difficult to draw any other conclusion. Vigar has been a principal source of information to the police in their investigations of a matter and it raises the obvious question: Was that file kept on Vigar to discredit his evidence; if not for that reason, for what other reason? Why else would a covert file be kept? If a more innocent explanation exists, why has the department not given us one? Why has the government department not given Ian Vigar the information?

Hon E.J. Charlton: When did you become aware that Vigar felt that he was being unfairly dealt with?

Hon KIM CHANCE: On this issue?

Hon E.J. Charlton: Yes.

Hon KIM CHANCE: On 14 March 1995.

Hon E.J. Charlton: I was aware of it a long time ago.

Hon KIM CHANCE: I was not formally advised. I did not have anything in writing on this specific issue until 14 March.

Hon E.J. Charlton: Nor did I, but I was made aware by him that he believed that he was being unfairly dealt with.

Hon KIM CHANCE: Vigar was not aware of the covert file.

Hon E.J. Charlton: When did you first become aware?

Hon KIM CHANCE: I want to stay within the ruling that was given by the Deputy President.

Hon E.J. Charlton: I think you are doing yourself an injustice if it proves in the long run that other members of Parliament knew that this man was being unfairly treated in his assessment by the department some years ago.

Hon KIM CHANCE: Yes, I can say that I had knowledge of the incident some time ago - certainly many months ago; I am not prepared to say years ago, but many months ago - at about the time, if we can put a time marker on it, that the matter was raised with the Minister and the Minister for Primary Industry. However, I cannot say any more than that.

What has been so remarkable about this case is that, had it not been for the execution of the search warrant on the Department of Agriculture - in itself, as I have said, a remarkable thing - Ian Vigar would never have known about the unofficial file containing

personal details. It was that extraordinary event and then the fact that, as a result of that extraordinary event, a list of the files seized one way or another came into Mr Vigar's possession -

Hon E.J. Charlton: Perhaps in years gone by a number of files were kept on a number of employees who were not allowed to go about their business in the proper way.

Hon KIM CHANCE: I am disappointed to hear that. In these unusual circumstances this particular employee was able to identify a file which was clearly a personal file. How many other such files exist? How many other servants of the public have an official personal file maintained by the human relations manager or the equivalent in that department, and an unofficial file kept by some other superior to which the human relations department has no access - and, there being no official recognition of the existence of the file, for all intents and purposes it does not exist? How many people's union activities, political activities or even their financial and personal activities may be of interest to a senior departmental officer, not necessarily the chief executive officer?

Hon Tom Helm: Maybe they did not have any, but it's on their file anyway.

Hon KIM CHANCE: We do not know the answer to that question. We do not know how many departments practise this means of getting around the fact that personal files may be viewed by an employee. Are files kept on public servants which contain any form of prejudicial information which may affect their careers or the careers of other people? We have already established that in that one file prejudicial information was held relating to another employee. We do not know how that information will be used or who will use it. The most important question is: What is the Government's position on this? Does the Government, in the knowledge of this information, support the practice of departments' maintaining secret personal files? If it does not support the practice, its choices are crystal clear. It can order the Department of Agriculture to allow Ian Vigar access to his file, if necessary, in company with CIB officers and it can order its departments to hand over all covert files to every public sector employee concerned. If the Government will not do that - I have not condemned the Government at any stage on this - it will stand condemned for its support and encouragement of what can be described only as a despicable practice which is more reminiscent of a totalitarian society than one which values its public service, as the Premier has informed us it does.

In the short time remaining I will raise a different issue relating specifically to my electorate, although it is an issue that has impact across the State. A number of country high schools throughout Western Australia, as a result of their relatively low enrolment of students, are unable to provide teachers for a wide range of subjects. In itself that is nothing new. Historically, country high schools have been able to compensate in one way or another perhaps through the combination of the inherent advantages of smaller schools and as a result of the dedication of the teachers, including presumably the now Minister for Education and other honourable members of this place. I raise this matter now in part as a result of the impact of the situation which seems to me to be more acute than it has been, and because so often when the matter is discussed we are assured that the answer lies in distance education; we are assured that modern technology will solve this longstanding problem. Inasmuch as I want to believe that, I will use the time available to me to question whether we have placed too much faith in distance education because we want to believe it can be the answer. In doing this I will personalise the issue by relating my comments to one student at the Merredin Senior High School. In doing so I do not want members to imagine this is an isolated incident. Hundreds of country high school students face the same dilemma that Charise is experiencing. Some are average students and some, like Charise, are gifted. I also take this opportunity to say, as has the Leader of the Opposition in this place, how much I appreciated the report Hon Derrick Tomlinson and his committee have issued on this subject. I have mentioned this to the member privately. I found it enlightening and, although it has identified issues now, some of those issues require further investigation. Distance education is one of those issues.

Merredin Senior High School, like other country high schools, is now unable to provide

teachers for a range of subjects which are core TEE subjects. That high school does not have the luxury of being able to combine classes with a nearby school. Its neighbouring schools are the Northam Senior High School to the west and the Eastern Goldfields Senior High School to the east. Charise is a gifted student, as I have said. The Merredin Senior High School has been able to deal with gifted students in the past. Hon Derrick Tomlinson just referred to the fact that last year Merredin Senior High School produced the student with the highest TEE score in any state school in Western Australia - Darren Cox. I was pleased with that result. I had been a neighbour of young Darren for some years.

Hon Derrick Tomlinson: At Doodlakine.

Hon KIM CHANCE: Another Doodlakine boy.

Charise is a gifted student, particularly in mathematics. Her scores in TEE calculus in year 11 were all in the high nineties. Going into this year she must study advanced calculus, which is an incredibly difficult subject, by distance education. I have spoken to people who work in distance education, people who have recently completed advanced calculus for their TEE, a number of other educators and past students. Without exception these people - including the people who work in distance education - have said it is not possible to teach TEE advanced calculus by distance education. They mentioned a couple of other subjects, such as English literature. I have checked how many students took TEE advanced calculus by distance education last year. Statistically, the group was too small to draw any conclusions. Only 18 students enrolled. A small number graduated and one passed the subject extremely well. The performance on its statistical data looked to be pretty average, but with only 18 students it is very difficult to draw a conclusion. Nonetheless, they were horrified at the thought that anyone would attempt advanced calculus by distance education.

We all want to believe in distance education. I am very happy with the work I know the Minister has done in improving the quality of the output of distance education, because that is important. However, we must accept that some subjects are very difficult to teach by distance education. With regional country high schools which do not have the option of combining classes with other schools, we must do something about the student-teacher ratio so that we can get over the hump of not being able to deliver core TEE subjects by the normal method of teaching.

The three students in Charise's year need TEE advanced calculus in order to continue their education. I understand that two of the three students who planned to be engineers have now dropped out of that course, so their futures have been changed, if not destroyed, by that process. Charise is battling on. She is, as I said, a gifted student. She is working for three hours a night on advanced calculus. The books which she is being sent by distance education are often handwritten and sometimes illegible. Frequently, after working all night to try to solve a particular problem because she cannot get her answer to match up with the answer that was sent with the exercise, she finds the answer is wrong. She goes back the next day to try to work out why it is wrong. She telephones distance education and eventually gets on to a tutor who undertakes to look at it, and two days later she is called back and told, "Thank you for pointing out the error." That is not quality education. This student has another five TEE subjects - tough ones - and she is trying to get through them as well as devote her life to getting through advanced calculus. She will not make it. The girl is despairing. A gifted child is having her education destroyed because Merredin is 0.2 short of an FTE. The teachers are there. The head of the mathematics department is capable of teaching advanced calculus and has done it previously with no problem. He is a talented teacher. We just do not have the will to deliver the service. I hope the Minister does not take this as my having a go at him personally. I am just saying there must be some flexibility in a student-teacher ratio so that we can overcome this problem.

Hon N.F. Moore: I agree entirely that we need flexibility. You should talk to Hon John Halden about that.

Hon John Halden: That is an outrageous comment. I happen to be an advocate of flexibility too, so stop being stupid. You cannot help yourself. You are an eternal fool.

The DEPUTY PRESIDENT: Order! The member's time is running out and I am sure he has a few other things to say.

Hon KIM CHANCE: Three kids have had their education, and perhaps even their careers, disrupted. Charise had every opportunity to scale the heights to which Merredin Senior High School took Daryn Cox in the 1994 TEE. She has lost that opportunity. She will never catch up the time that she has lost. Her two classmates - only three of them are doing advanced calculus - have possibly lost their careers and have certainly blown away a year of education because we are 0.2 of an FTE away from being able to deliver what they need.

Debate adjourned, on motion by Hon Derrick Tomlinson.

LAPSED BILLS

Restoration to Notice Paper - Assembly's Message

Message from the Assembly received and read requesting the Council to resume consideration of the following Bills at the stage they had reached in the previous session -

1. Agricultural and Veterinary Chemicals (Taxing) Bill
2. Agricultural and Veterinary Chemicals (Western Australia) Bill
3. Financial Agreement Bill
4. Occupational Safety and Health Legislation Amendment Bill

PRISONS AMENDMENT BILL

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [10.37 pm]: I move -

That the Bill be now read a second time.

This Bill will amend the Prisons Act 1981 by inserting specific provisions into that Act to facilitate the use of dogs in drug detection searches. There has been concern for some time to pursue all available measures to prevent prohibited drugs from being taken into and used in prisons. It is an essential part of the prison drug reduction strategy to establish a fully operational dog drug detection unit in Western Australia. The Prisons Act at present provides a general power of search of a prisoner by an officer pursuant to section 41. Under section 49, the superintendent is given powers to require and direct the search of a person entering or seeking to enter a prison and the examination of any article in the possession or under the control of the person. The procedures for such searches are set out in the Prisons Regulations 1982.

The legislation as it now stands does not make specific provision for use of dogs in searches. Clause 4 of the amending Bill provides for a new section 49(1)(A) to allow a superintendent to require and direct a search of a person entering or seeking to enter a prison on the one hand or a person outside but near a prison where the superintendent has formed the opinion that the search is necessary for the security or good order of the prison. Clause 5 inserts section 49A which defines "drugs search" and "prison dog" and specifically provides a power for a prison officer to use a prison dog to assist in the carrying out of a search. This must be done in accordance with prescribed procedures. New section 49A(6) is a standard provision limiting the liability of the dog handler in all cases except where a malicious, unwarranted and unjustified command is given. Clause 6 of the Prisons Amendment Bill inserts a regulation making power in respect of acquisition, training, assessment, approval and use of dogs as well as the responsibilities of the handler.

Draft regulations have already been prepared which tightly control and regulate the dog squad and the care and use of the dogs. Queensland, Victoria and New South Wales have all considered it necessary to legislate for the use of dogs in their prisons. I consider that

the use of dogs in Western Australia is an essential element in this Government's commitment to eradication of illicit drug use in our prisons. The proposed amendments are a necessary part of that strategy as they clearly set out situations in which the dogs can be used. This offers the necessary safeguards to the rights of members of the public wishing to visit prisons and also those of inmates and officers. I should make it clear that these dogs are highly trained for the specific purpose of drug detection. There is no intention to use them for any other purposes. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

**TRAINING, DEPARTMENT OF - ANNUAL REPORT 1993-94, PAGE
SUBSTITUTION**

By leave, Hon N.F. Moore (Minister for Education) substituted page 117 of the Western Australian Department of Training 1993-94 annual report tabled on 19 October 1994 as the original page contained incorrect contact details for the curriculum and customised training network.

[See paper No 409.]

House adjourned at 10.39 pm

QUESTIONS WITHOUT NOTICE

OVERHUE, MR TONY - PAYMENTS BY OFFICE OF INDUSTRIAL TRAINING

10. Hon JOHN HALDEN to the Minister for Education:

- (1) Will the Minister confirm that Mr Tony Overhue of Esperance was paid \$1 432.50 for work carried out by the Office of Industrial Training?
- (2) If so, what was the nature of that work and what period did it cover?
- (3) How many other people have received payments for similar services since 1 July 1994 and, without naming the people, what was the amount paid for each service and when was the payment made?
- (4) If other people have received payment, what is the difference between the Minister's answer today and that given last Thursday to my question without notice 2 about this type of expenditure when he claimed, without qualification, that no such expenditure had been made after 1 July 1994?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) Mr Overhue was engaged on a short term contract from 5 November 1994 to 5 January 1995 to conduct an appraisal of the progress of trainees employed by the Esperance group training scheme under the Australian vocational training system pilot program for horticulture.
- (3) One. Five payments totalling \$680 were made between 5 July 1994 and 23 December 1994.
- (4) The member's question without notice 2 was understood to refer to the practice of industry bodies accepting greater responsibility for the greater administration of apprenticeships and traineeships. This current matter refers specifically to the appraisal of individual trainees in a particular program. The practice has been in place for some time and has been found to be the most effective means of delivering this service in outer lying areas of the State. I regret that the inference of the member's question without notice 2 was not fully understood and that the matter of these individual consultancies was inadvertently omitted.

**CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF -
COLLIE OPERATIONS CONTRACTED OUT**

11. Hon DOUG WENN to the Minister for the Environment:

- (1) Have any parts of the Collie Department of Conservation and Land Management operations been handed over to private contractors in the last three months?
- (2) If yes, which parts and when were they privatised?
- (3) Were tenders called for and where and when were they advertised?
- (4) If they were not put out to tender, who arranged the contracts between CALM and the private operators?
- (5) Who are the proprietors of the businesses that have secured such contracts?
- (6) If the proprietors are corporations, who are the directors of those corporations?
- (7) Are these directors or proprietors former employees of CALM?
- (8) If yes to (7), when did these individuals cease to be employees of CALM?
- (9) If yes to (7), what were the salaries of those former CALM employees and what redundancy payments did they receive?

- (10) What remuneration will the contractors receive under the new contract?
- (11) What role did the member for Collie play in this process?

Hon PETER FOSS replied:

- (1) No.

The answers to the other questions are "Not applicable". However, I believe that the changes to which the member is referring are ones which took place in August last year. With the member's indulgence, I will answer the questions on the basis that that is what he referred to.

- (2) Not applicable.
- (3) No.
- (4) CALM.
- (5)-(6) The contractors are Mr Glyn Yates, Mr Colin Giles, and Mr Gary Blakemore, trading as South West Fire Unit Fabrications.
- (7) The parties are former CALM employees.
- (8) August 1994.
- (9) Mr Yates' salary was \$42 000 a year. Mr Yates resigned and did not receive any redundancy package. Mr Giles and Mr Blakemore were wages employees on \$455.70 a week. They did not receive a redundancy payment, but received workshop equipment to the value of \$13 093.39 as an incentive to resign from CALM and form a private business.
- (10) The contractors have a one year contract with a one year option to perform mechanical work for CALM at \$30 an hour. The rate was set to equal the rates when a similar contract was let by tender to the private sector at Manjimup in July 1994.
- (11) The member for Collie was informed, but played no other role in the process.

STATESHIPS - SOUTH EAST ASIA, NEW SERVICE

12. Hon JOHN HALDEN to the Minister for Transport:

- (1) Did Stateships recently announce a new liner service providing a regular direct link to South East Asia from Western Australia's north west regional ports and Darwin?
- (2) If yes to (1) -
 - (a) who authorised this service and on whose recommendation;
 - (b) will this be achieved merely by extending the previous north west service;
 - (c) if yes to (b), how much longer will the voyage take; and
 - (d) is the second sailing of this new service the *Roberta Jull* voyage 69 which was scheduled to depart Fremantle on about 23 March 1995?
- (3) If yes to (2)(b), will the Minister advise for each sailing to date -
 - (a) how much cargo - number of containers - was loaded for South East Asia;
 - (b) what was the cargo;
 - (c) what were the loading ports;
 - (d) what was the gross freight on the South East Asia cargo;
 - (e) what was the estimated net freight after deducting the customary estimates for stevedoring and cargo charges;

- (f) what was the total cost of the additional voyage days including bunkers;
- (g) was any cargo, which was destined for the north west, short shipped from Fremantle due to a shortage on the vessel; and
- (h) if yes to (g), how many containers and/or tonnes and for which ports?

Hon E.J. CHARLTON replied:

- (1) Yes.
- (2) (a) The Western Australian Coastal Shipping Commission approved the introduction of the new service on 20 January 1995 on the recommendation of the Acting General Manager, Stateships. However, the introduction of this new service had been under consideration for some time.
- (b) It will be achieved by extending the trading pattern from Fremantle to the north west and Darwin offshore to Surabaya and Semarang.
- (c) A round trip for a vessel engaged in this trade will take 28 days as opposed to 20 days servicing the north west alone. The objective is to achieve a fixed day sailing every fortnight as opposed to a rolling 10 day service that was previously in place.
- (d) Yes. The *Roberta Jull* sailed from Fremantle on 24 March 1995.
- (3) (a) *Frank Konecny*, Voyage 64, 26 TEU
Roberta Jull, Voyage 69, 15 TEU
- (b) Scrap steel.
- (c) Fremantle.
- (d) *Frank Konecny* - \$36 500; *Roberta Jull* - \$19 500.
- (e) \$711 per container.
- (f) No additional costs.
- (g) No.
- (h) Not applicable.

SOLOMON, MR PAUL - RELOCATION, PREMIER'S MEMORANDUM TO MINISTER FOR HEALTH

13. Hon J.A. SCOTT to the Leader of the House representing the Premier:

Did the Premier send a memorandum to the Minister for Health, Hon Graham Kierath, in which he acceded to the Minister's request to remove Mr Paul Solomon from his position as Managing Director of the Government Health Bureau? If yes -

- (a) Will the Minister table this memorandum and, if not, why not?
- (b) Why did the Premier condone an action of political interference in the Public Service which is in breach of section 8(2) of the Public Sector Management Act?
- (c) Given that there has been a breach of section 8(2) of the Public Sector Management Act -
 - (i) Will the Premier resign?
 - (ii) Will the Premier ask for the resignation of the Minister for Health, Graham Kierath?

Hon GEORGE CASH replied:

The Premier sent a memorandum to the Minister for Health in connection with

the relocation of Mr Solomon. However, that relocation was not at the request of the Minister; the relocation was at the request of the Commissioner of Health who, as the chief executive officer of the department, is the only person who can remove personnel from positions within that department. The Minister's involvement was to facilitate the relocation of Mr Solomon. The actions were therefore not in breach of the Public Sector Management Act. I am happy to table the relevant correspondence between the Premier and the Minister.

[See paper No 217.]

**HEALTH SERVICES - PUBLIC SERVANTS REMOVED, TRANSFERRED OR
REDEPLOYED AT REQUEST OF MINISTER FOR HEALTH**

14. Hon J.A. SCOTT to the Minister for the Environment representing the Minister for Health:

Has the Minister for Health asked for the removal, transfer or redeployment of any other public servant within the health sector apart from Mr Paul Solomon?

Hon PETER FOSS replied:

The information I have been given to answer that question is exactly the same as that given by the Leader of the House to the previous question.

**FREMANTLE PORT AUTHORITY - PATRICK STEVEDORES, CRANE
REMOVAL**

15. Hon JOHN HALDEN to the Minister for Transport:

- (1) Has there been a requirement of the Fremantle Port Authority that Patrick the Australian Stevedore's - previously Australian Stevedores - disused crane parked at Nos 1 and 2 berths North Quay be removed by 28 February 1995, or some other date?
- (2) If yes, did Patricks, in compliance with the requirement, sell the crane to a purchaser who indicated that it would be removed promptly from the port?
- (3) Is the beneficial owner of the crane now the Buckeridge group?
- (4) Has the FPA leased, or promised to lease, berths Nos 1 and 2 North Quay, Fremantle and/or areas adjacent thereto, to Buckeridge and Associates Pty Ltd?
- (5) If yes to (4), were tenders invited for the leasing of these government assets and, if not, why not?
- (6) Is the crane still at Nos 1 and 2 berths, North Quay?
- (7) If yes to (6), why?

Hon E.J. CHARLTON replied:

- (1) No order has been given by the Fremantle Port Authority to Patrick the Australian Stevedore for the crane to be removed by 28 March 1995. That date was selected by Patricks to remove the crane.
- (2) Not applicable.
- (3) Two parties are claiming ownership, one being BAAC Pty Ltd, and the other Patricks.
- (4) A lease has been provided to BAAC Pty Ltd.
- (5) No, the Government wishes to encourage competition in stevedoring. A company applied to provide these services in competition with the two existing stevedores. If other companies wish to provide stevedoring services the Government will also encourage them by allowing them to use or lease areas at the port. This policy is consistent with previous decisions to respond positively to proposals for use of port infrastructure which encourages increased efficiency and competition.

- (6) Yes, at berth No 2, North Quay.
- (7) This question should be directed to the owner of the crane, once ownership is resolved.

WHITE, DR JAN - TRANSFER FROM HEALTH DEPARTMENT

16. Hon KIM CHANCE to the Minister for the Environment:
- (1) Did the Minister write to his successor, the Minister for Health, expressing concern at the transfer of Dr Jan White from the Health department?
 - (2) If so, what concerns did the Minister raise with the Minister for Health?
- Hon PETER FOSS replied:
- (1) No
 - (2) Not applicable.

BUILDING INDUSTRY - TASK FORCE, COMPLAINTS OR INQUIRIES
Award Breaches Prosecutions; Money Recovered

17. Hon A.J.G. MacTIERNAN to the Minister for the Environment representing the Minister for Labour Relations:
- (1) Have any negotiations or prosecutions over award breaches resulted from complaints or investigations by the building industry task force since that task force began operations?
 - (2) How much money has been recovered as a result of the complaints of investigations of the task force?

Hon PETER FOSS replied:

- (1)-(2) The question does not seem to make a great deal of sense. I wonder whether it could be rephrased and put on notice.

**WATER AUTHORITY OF WESTERN AUSTRALIA - COLLIE, STAFF
 REDUCTION PLANS**

18. Hon DOUG WENN to the Minister for the Environment:
- (1) Does the Water Authority intend to reduce its staff at Collie?
 - (2) If yes, will staff be transferred or offered redundancy?
- Hon PETER FOSS replied:
- (1) There is no plan to reduce Water Authority staff at the Collie office. Redesign of the senior staff position of operations manager is currently under consideration.
 - (2) Not applicable.

FORESTS AND FORESTRY - GIBLETT BLOCK, CLOSURE; LAND SWAP
Conservation and Land Management Act, Obscure Section Invoked

19. Hon J.A. COWDELL to the Minister for the Environment:
- (1) Why did the Minister take the unprecedented step of using an obscure section of the Conservation and Land Management Act to prevent access to three forest blocks on 17 February 1995?
 - (2) How many times previously has this section of the Act been invoked?
 - (3) Did the closure of access to the Giblett block prevent public scrutiny of logging on this block?
 - (4) Was this the purpose of the Minister's action?
 - (5) If not, when did the Minister become aware of the Department of Conservation and Land Management's approval of coupe swapping and logging in Giblett block?

(6) Does the Minister approve of this action?

Hon PETER FOSS replied:

- (1) I was not the person who closed all three blocks; one was closed by Mr Minson and two were closed by me. We received a letter from solicitors representing persons in the environmental movement drawing our attention to the obligation of the duty of care to protesters to ensure they were not injured in their confrontation with people carrying out logging. The solicitor's letter threatened to take action against the Government if it did not observe its duty of care to prevent the protesters from coming to harm. In response to that threat we took the only method of keeping the two apart and preventing the protesters coming to harm.
- (2) I do not know how many times the section of the Act has been previously invoked.
- (3) I will treat the third question as rhetorical.
- (4) I have already indicated the purpose and I believe the action taken served that purpose. I do not believe the action was connected with the logging; rather, with preventing confrontation.
- (5) The swapping was acceptable because it was within the terms of the CALM forest management plan. They were swapped because one which was originally to be logged had a high quantity of chips and a low quantity of sawn timber. CALM wished to maximise the amount of sawn timber taken. In fact, the amount of sawn timber from that block was 67 per cent saw logs - an extremely high percentage. Nearly half of that was for grade 1 timber or better; that is, veneer or premium quality. The premium quality timber was to be used for high quality display flooring.
- (6) I was not asked to approve of this action; it was approved under the forest management plan, which was approved partly by this Parliament. Not only did I approve but also the member opposite, as a member of this Parliament, approved of that forest management plan. I was not consulted about the swap, but I agree with the concept, wherever possible, of maximising the amount of sawn log achieved in Western Australian forests and minimising the amount of log chipping.

WESTERN POWER - COLLIE, STAFF REDUCTION PLANS

20. Hon DOUG WENN to the Minister for Mines representing the Minister for Energy:

- (1) Does Western Power intend to reduce its staff at Collie?
- (2) If yes, will staff be transferred or offered redundancy?

Hon GEORGE CASH replied:

- (1)-(2) Western Power does not intend to reduce its staff numbers within its electricity distribution customer services operations below the present labour force establishment. Recent reductions in staffing levels have not been the result of further restructuring, transfers or redundancies. Rather, people have left of their own accord for alternative employment in the Collie district.

BUDGET, STATE - CONSTITUTION ACT, SECTION 46, COMPLIANCE

21. Hon JOHN HALDEN to the Minister for Finance:

Given the President's recent ruling on the ordinary annual services of the Government in which the President upheld my point of order that the 1994-95 Budget had been tacked, what action has the Government taken, or is it proposing to take, to ensure this year's Budget conforms with section 46 of the Constitution Act?

Hon MAX EVANS replied:

Discussion is taking place on this matter and the House will be advised of the result.

HIGH COURT - CHALLENGE TO COMMONWEALTH CONSTITUTIONAL POWER TO MAKE GRANTS TO UNIVERSITIES AND STUDENTS, FUNDS

22. Hon J.A. COWDELL to the Minister for Education:

- (1) What funds, if any, has the Government committed to a High Court challenge to the Commonwealth's constitutional power to make grants to students and universities?
- (2) Is the State warranted in taking a case to the High Court, in the light of Crown Law advice, referred to by the Minister in answer to my question 872 of 1994?
- (3) Is this just another Mabo-style waste of taxpayers' funds?

Hon N.F. MOORE replied:

- (1) Nil.
- (2)-(3) Not applicable.

SCHOOLS - COUNTRY HIGH

Assistance for Isolated Children Allowances, Commonwealth Changes

23. Hon KIM CHANCE to the Minister for Education:

Has the action of this Government, in cancelling the "bypass" status of some country high schools, resulted in hundreds of families in rural areas being denied assistance under the Commonwealth Government's assistance for isolated children grants?

Hon N.F. MOORE replied:

No. The member should have studied this issue more carefully before raising it in this House. The Federal Government has changed its allowances to isolated children to the extent that it is no longer possible for students to choose to attend a school where there is a specialty they wish to study. This particularly affects students who want to attend agricultural colleges. Under the old federal government rules they were entitled to receive assistance while attending an agricultural college even if it was not their nearest high school. The Commonwealth Government changed the rules and now requires students to attend their nearest school in order to qualify for the AIC allowance. I have written to the federal Minister Mr Free on two occasions requesting that he reverse the situation, but on both occasions he has refused to do so. The State Government has, however, decided to assist students who go to agricultural colleges by increasing the State living away from home allowance to \$1 000 a student. This will help those families who have been so viciously attacked by the Federal Government.

WATER AUTHORITY OF WESTERN AUSTRALIA - JOONDALUP AND FREMANTLE OFFICES, CLOSURE PLANS

24. Hon SAM PIANTADOSI to the Minister for Water Resources:

- (1) Is it the Minister's intention to close the Joondalup and Fremantle offices of the Water Authority of Western Australia?
- (2) If yes, where will these offices be relocated?

Hon PETER FOSS replied:

- (1)-(2) It is certainly not my intention. Should the member wish to know whether it is the intention of the Water Authority, he should put the question on notice.

Hon John Halden: What a disgrace. What are you the Minister for? Nothing?

Hon PETER FOSS: No. I do not know what the intention of the Water Authority is.

SCHOOLS - COUNTRY HIGH

Assistance for Isolated Children Allowances, Commonwealth Changes

25. Hon KIM CHANCE to the Minister for Education:

Has category B of the commonwealth guidelines -

Hon John Halden: The Minister for Water Resources is so smart that he will trip himself one day.

The PRESIDENT: Order! I wish honourable members would not interrupt Hon Kim Chance when he is trying to ask a question. They are interjecting on him and being rude to him. I do not know how he puts up with it.

Hon KIM CHANCE: I am a very tolerant man!

Has category B of the commonwealth guidelines for assistance to isolated children, and specifically item 2.2.28 of those guidelines, been changed with regard to the criteria for determining what is a bypass school? That is aside from the question of special subject schools referred to in the answer the Minister gave me, which had nothing to do with the question I asked him.

Hon N.F. MOORE replied:

I do not carry the commonwealth guidelines around in my file or in my head, so I do not know what is contained in item 2.2.28. I repeat, the changes to the rules with regard to AIC allowances for students in the country, which have caused significant pain in rural Western Australia, have been brought about by the decisions of the commonwealth friends of members opposite. They have changed the rules to ensure that students can no longer benefit from those allowances when they should be able to do so. The State Government has stepped into the breach and has provided assistance where the federal friends of members opposite have taken it away.

Hon Kim Chance: You have just misled the House.

The PRESIDENT: Order!

SCHOOLS - GROVELANDS PRIMARY

Bandaids Donations; Funding Reductions

26. Hon JOHN HALDEN to the Minister for Education:

(1) Is the Minister aware that, due to reductions in funding to schools, at least one school, the Grovelands Primary School, is asking parents to donate bandaids because it cannot afford to buy them?

(2) Is this a typical example of the Government passing the cost of education to the community, rather than paying it itself?

Hon N.F. MOORE replied:

(1)-(2) Obviously, I am not aware that is the case, and I will certainly find out whether a school is seeking bandaids from parents. I suggest that a principal who cannot organise a school budget to have enough money for bandaids needs to look at the way in which government funds provided by way of the school grant are used. Every school in Western Australia receives a school grant, as Hon John Halden may or may not know, and that grant is available to provide things such as bandaids and a variety of other requirements at the school level.

I remind the member that in his response to the Hoffman inquiry dealing with the funding of schools, he wrote that the Better Schools program, implemented by my predecessors and his colleagues, was all about saving

money and reducing the cost of running schools. Hon John Halden admitted that about a month ago in his response to the Hoffman report. He is saying that when his party was in government it reduced the amount of money provided to schools, and his Government introduced the Better Schools system to save money. The Vickery inquiry came to the same conclusion and said that government school education in Western Australia had been wound back by the previous Government, to the point at which many facilities in schools must be provided by parents. The Vickery report is an indictment of the previous Government when it was in office. As Opposition spokesman on education, Hon John Halden admitted it by saying that the Better Schools reform was about saving money, yet he now stands and criticises someone who is trying to find money for education and to find enough money to retrieve the situation the previous Government left. The education system was left in diabolical straits in absolute poverty. This Government is trying to fix it, as well as restore the State's finances to a reasonable level of competence.

NATIVE TITLE ACT - HIGH COURT DECISION

Native Title Issues in Western Australia Legislation, Discussions with Aboriginals

27. Hon TOM STEPHENS to the Minister for Education representing the Minister for Aboriginal Affairs:

With reference to the complementary Western Australia legislation now required by virtue of the recent High Court decision on native title issues in Western Australia -

The PRESIDENT: Order! The member must read the question so that we can understand it. He is reading at a hundred miles an hour and I cannot understand what he is saying.

Hon TOM STEPHENS: Will the Minister give an assurance that consultation with the Aboriginal people of Western Australia will be undertaken prior to the introduction of this legislation into the State Parliament?

Hon N.F. MOORE replied:

I thank the member for notice of this question.

The High Court decision means that the commonwealth Native Title Act operates in Western Australia. The commonwealth Native Title Act sets out a code on native title issues which must be strictly adhered to. The Minister for Aboriginal Affairs will be happy to consult with Aboriginal people towards amending this code to make it more workable in Western Australia. However, the power to amend is effectively in the hands of the Federal Government, which has yet to show a willingness to establish a workable solution to native title issues that face Western Australia.

LANDCARE - NATIONAL FUNDING, WESTERN AUSTRALIAN GRANT

28. Hon SAM PIANTADOSI to the Minister for Transport representing the Minister for Primary Industry:

What percentage of funds received from the federal Grants Commission for Landcare was expended in 1993 and 1994?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The Minister for Primary Industry has provided the following reply -

Under the national Landcare program, national funding for 1993-94 was \$103.9m and for 1994-95 was \$102.4m. The Western Australian grant under that program for 1993-94 was \$7.4m, and for 1994-95 was \$8.7m. All funds allocated to Western Australia result from specific project applications and thus all funds are expended. Please note that funds allocated to the national Landcare program are

provided by the Department of Primary Industry and Energy via the Commonwealth-State partnership agreement, and not through the federal Grants Commission.

HOMESWEST - COLLIE HOUSES, VACANCIES; FOR SALE

29. Hon J.A. COWDELL to the Minister for Finance representing Minister for Housing:

- (1) How many unoccupied Homeswest houses are there in Collie?
- (2) How many Homeswest houses have been advertised for sale in Collie over the past 12 months?
- (3) Does Homeswest intend to sell any Homeswest houses in Collie over the next 12 months and, if so, how many?

Hon MAX EVANS replied:

I thank the member for some notice of the question.

- (1) 35.
- (2) 16.
- (3) Yes. However, actual numbers will be determined by the market.

**FISH RESOURCES MANAGEMENT ACT - AMENDMENTS REQUIRED BY
NATIVE TITLE ACT**

30. Hon TOM STEPHENS to the Minister for Transport representing the Minister for Fisheries:

- (1) What amendments will be necessary to the Fish Resources Management Act in light of the recent unanimous decision of the High Court of Australia on the question of the respective validity of the commonwealth and state legislation relating to native title?
- (2) Does the Minister accept that the High Court's decision reinforces the view that the Fish Resources Management Act, in so far as it purports to diminish Aboriginal fishing rights in Western Australia, is invalid?

Hon E.J. CHARLTON replied:

I thank the member for some notice of the question. The advice that I have received is -

I am presently seeking advice on the implementation of the commonwealth Native Title Act in respect of the Fish Resources Management Act.

SCHOOLS - BALLAJURA COMMUNITY COLLEGE
Fees

31. Hon JOHN HALDEN to the Minister for Education:

- (1) Are parents of year 7 students attending Ballajura Community College paying \$215 as an amenity fee to the school and does the book list total \$114 a year?
- (2) Are the amounts excessive when compared with other schools? Other year 7 students at government schools throughout the State, by regulation under the Education Act, are paying a \$9 amenity fee and the book list costs approximately half that at the Ballajura Community College which is also a government school.
- (3) What law, if any, regulates such payments, and does it specify maximum amounts?
- (4) Is this another example of the Court Government's push to move the cost of education to students in government schools?

Hon N.F. MOORE replied:

(1)-(4) The Ballajura Community College was an initiative of my predecessor, Hon Kay Hallahan -

Hon John Halden: The fees were not!

Hon N.F. MOORE: - who decided that we should seek to set up in Western Australia a community college to provide a middle school education as opposed to the usual primary-secondary education. The first year of intake at Ballajura Community College is year 7. It has developed as a year 7 to 10 school, commonly called a middle school. It is the first of its type in Western Australia. All the evidence provided to me is that it is working very well. The school has been given a degree of flexibility in the way it carries out its educational program.

Hon John Halden: It is called devolution. It is \$215 per student. It is \$206 more than everywhere else.

The PRESIDENT: Order! The Leader of the Opposition should come to order. He has asked his question.

Hon N.F. MOORE: The bottom line is that the Ballajura Community College is called a community college because - to give credit to my predecessor - Hon Kay Hallahan set up a consultative community group to look at the planning, design and operations of the school. The group was set up well ahead of the school commencing. A significant degree of community consultation occurred regarding the way the school would be set up. That has flowed on to other new high schools being built because it is a very good idea. It is all about the community becoming involved. The community has a significant input to the way in which the school is managed. The decision was made by the school to charge secondary school fees for year 7 students. The matter was not referred to me as the Minister or to the Education Department. The school decided that because it is a secondary school for all intents and purposes -

Hon John Halden: Rubbish!

Hon N.F. MOORE: It is a secondary school. The students are attending a secondary school and they have all the resources and facilities of a secondary school, which is different from a primary school. It was decided by the school community to charge secondary school fees. The fees were determined by the member's colleague, Hon Pam Beggs, who headed an inquiry into school fees and determined -

Hon John Halden: When will you take responsibility for this portfolio?

Hon N.F. MOORE: - that a fee of \$215 would be payable by secondary school students. That has not changed.

Several members interjected.

Hon John Halden: You are a disgrace!

The PRESIDENT: Order!

Hon N.F. MOORE: The situation at Ballajura Community College is that the school community decided to charge a secondary school fee which was determined by Hon Pam Beggs in the early 1980s, and the situation has not changed.
