



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE COUNCIL

Wednesday, 7 May 1997

Legislative Council

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THE PRESIDENT (Hon Clive Griffiths) took the Chair at 4.00 pm, and read prayers.

STATEMENT - MINISTER FOR TOURISM

Elle Advertising Campaign

HON N.F. MOORE (Mining and Pastoral - Minister for Tourism) [4.01 pm] - by leave: I wish to make a short ministerial statement about EventsCorp, Brand WA and the Elle campaign and to table a list of costs associated with the Brand WA advertising campaign which involves Elle Macpherson.

Over recent months, there has been constant and unwarranted criticism in both Parliament and the media about a government agency which, contrary to what has been said, has a highly successful record. I want to put into the parliamentary record and, hopefully, into the public arena through the media the major benefits that EventsCorp is generating year in and year out for Western Australia.

Let us look at the balance sheet. EventsCorp is the first major events agency set up by any State Government in Australia. Most States have now copied its structure and functions. In 1987, only 15 international events were hosted in Australia; this year, there will be 12 international events in Western Australia alone. Remembering that we do not win every event for which we bid, in the past 10 years EventsCorp has bid for, and won, 71 internationally significant events; by May next year, that will be 82. The estimated economic impact of these events for Western Australia is \$220m, an average of \$22m a year.

This year, our Best on Earth in Perth campaign, comprising 12 quality world class events, is expected to have an economic impact on this State of \$88m, and the 10 events supported by EventsCorp are expected to generate \$53m of this amount. The World Swimming Championships are expected to generate a further \$35m. It is a record year for EventsCorp. In addition to this is -

825 hours of international television coverage through Rally Australia, the Hopman Cup and the Heineken Golf Classic in the past two years;

an estimated television audience of more than 250 million people for the Heineken Classic alone;

tourism postcards, comprising 15 second commercials featuring Western Australia's major tourist attractions, which are part of every international broadcast of the golf and the Hopman Cup; and

free promotion valued at \$2.2m a year in Singapore, Western Australia's No 2 tourist market, through the coverage of Rally Australia, Hopman Cup and the Heineken Classic, this free promotion being the equivalent of about two-thirds of the Western Australian Tourism Commission's international advertising budget.

In many ways, EventsCorp is operating with one hand tied behind its back. It, like the Government, needs to work responsibly within tight budgetary constraints and against fierce competition from other countries and other Australian States. The Victorian Government is very active in a campaign to wrest away from Western Australia a number of our major events.

Hon Kim Chance: Shame!

Hon N.F. MOORE: I agree.

The staff at EventsCorp and the Tourism Commission have every reason to be enormously proud of what they have done, and are doing, for Western Australia while achieving significant productivity improvements. Their dedication and professionalism are bringing other benefits to our State.

In addition to the economic impact and international media exposure, there are significant community benefits. Thousands of Western Australians and community groups get involved in these major events each year. This generates pride in the community for a job well done. It also gives those people the chance to develop new skills while being part of a world class event. The spectators also get the chance to watch world class athletes and performers in Perth.

While all this has been taking place, the Tourism Commission has undergone the biggest and most important change in its history. It is now the most aggressive it has been for at least a decade. The commission, after much

consultation and in partnership with the industry, is now focused on marketing Western Australia and getting visitors to our doorstep. Detailed market research in vital origin markets was part of this landmark change. It showed that the level of awareness about Western Australia among potential travellers was low. It showed also that Western Australia needed its own brand, hence Brand WA with its fresh, free, spirited and natural theme. It further showed that a point of difference in the advertising was the key to getting the Western Australian message across to potential visitors. This point of difference is Elle Macpherson. As we all know, Elle Macpherson is one of Australia's highest profile personalities both within Australia and internationally. Elle's personality epitomises everything that we are trying to sell about our State - the fresh, free, spirited and natural theme I was talking about. In visiting most of the tourism regions in Western Australia, Elle committed enormous time and energy to the campaign. Our agreement with Elle Racing Pty Ltd also stipulates that the Elle Racing team will refer to Fremantle as the team's home port.

The \$1m so widely reported comprises payments in the following order: \$100 000 at the execution of the contract; \$200 000 at the launch of Brand WA; \$200 000, of which \$140 000 was paid at 19 December 1996; and \$500 000 due to be paid on 31 July.

I want to stress that the Brand WA strategy, of which Elle is but a part, is a highly professional campaign based on sound research and industry consultation. Elle's cost to us was relatively modest compared with that of many other national and international celebrities. The whole of the Brand WA campaign will cost about \$8.8m over a four year period. It would have taken place with or without Elle Macpherson, because the research showed clearly that Western Australia needed consumer advertising to be successful in attracting tourists to our State. The involvement of Elle Macpherson has given our advertising campaign an extremely competitive edge.

Today, I am also honouring my commitment to table a list of costs associated with the Brand WA/Elle campaign. These figures will show that Brand WA is a huge promotional exercise for Western Australia, of which Elle is but one element.

I seek leave to table a document outlining the costs associated with that campaign.

Leave granted. [See paper No 422.].

PETITION - LABOUR RELATIONS LEGISLATION AMENDMENT BILL

Opposition

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.08 pm]: I present the following petition -

To the Honourable the President and members of the Legislative Council in Parliament assembled.

The Petition of the undersigned respectfully sheweth:

Our wish that any changes to the state's industrial relations system should recognise the special needs of employees to be protected from disadvantage, exploitation and discrimination in the workplace, and that we oppose the Labour Relations Legislation Amendment Bill 1997 which represents an attack on employees, their unions and personal freedom in Western Australia.

Your petitioners most humbly pray that the Legislative Council, in Parliament assembled will: Defer consideration of the Bill until after May 22 1997 to enable those Members of the Council elected in December 1996 to consider the Bill when they take their places after May 22, thus (a) enabling employees to participate in legitimate industrial action to gain better working conditions without the threat of massive fines and imprisonment, and (b) ensuring employees who are unfairly dismissed have access to a fair hearing before the Industrial Relations Commission including the right to proper compensation for unfair dismissal and that the Industrial Relations Commission retains the role of "independent umpire" without interference from Government or the Minister for Labour Relations.

And your petitioners as in duty bound, will ever pray.

The petition bears 95 signatures and I certify that it conforms to the standing orders of the Legislative Council.

[See paper No 423.]

A similar petition was presented by Hon Kim Chance (814 signatures).

[See paper No 424.]

LABOUR RELATIONS LEGISLATION AMENDMENT BILL

Notice of Motion - Order for Consideration of all Stages

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.12 pm] - without notice: I move -

That Notice of Motion No 5 be taken forthwith and that the question be resolved at this day's sitting.

Notice of Motion No 5 relates to the suspension of standing orders to enable the passage of the Labour Relations Legislation Amendment Bill between now and next Thursday night. Because they sat in this place for a lengthy time during the past 24 hours, members will be aware that we have in place a time management strategy which will enable the Bill to be debated and resolved by Thursday, 15 May.

The motion of which I gave notice yesterday, and to which I will not refer yet because I can discuss it only when it is moved, is designed to ensure that we debate the Bill. If we do not take this path, it will be possible for the Opposition to continue to move extraneous motions and to use the processes of the House to ensure continued delay and frustration of debate and consideration of the industrial relations legislation.

Hon Tom Stephens: We are ready to debate it after 22 May.

Hon N.F. MOORE: Because the House has already decided that the Bill will be debated and completed by 15 May, it is now necessary to ensure we have as much time as necessary in that period to ensure that the debate is adequate.

Members are also aware of a number of standing orders which have the effect of potentially delaying consideration of this Bill. That would be most unfortunate, because everyone wants to know what the Labor Party has to say about the Bill. We also need an opportunity during Committee to debate the clauses and the various amendments which have come forward from various sources, most of which are from the other side of the argument.

If this motion is agreed to and Notice of Motion No 5 is also ultimately agreed to, Standing Orders Nos 143, 243 and 244 would be suspended, with the result that the standing order relating to a disallowance motion having precedence over any other orders of the day would be deferred or suspended until the Labour Relations Legislation Amendment Bill is passed. It would also mean that the standing orders relating to the processes of the House beyond the Committee stage - that is, that the adoption of a report and the third reading must be taken on consecutive days - would be suspended and thereby enable us to deal with the matters in one hit, and extend the time for Committee debate.

Hon Tom Stephens: It is standing order 17:16. You will use the numbers and we will suffer!

Hon N.F. MOORE: Congratulations! The Leader of the Opposition has worked it out after all this time. I look forward to his using some other more original standing order which he may invent in due course.

Several members interjected.

The PRESIDENT: Order! Members know that they cannot carry on like that.

Hon N.F. MOORE: I will not take a lot of time.

Hon Graham Edwards interjected.

The PRESIDENT: Order! When I call order it means the Minister should also come to order. Hon Graham Edwards wants to make a comment regarding my suggestion that members do not interject.

Hon Graham Edwards: I am making the point that in the face of this motion, this Government cannot expect us to uphold the traditions of this place. It is something we have done very well but I am damned if I am going to do so in the face of this stuff.

The PRESIDENT: Order! The Government is not running this place; I am.

Hon Graham Edwards: It seems to me as though the Government is running it.

[Interruption from the gallery.]

The PRESIDENT: Order! I am telling the member that I apply the rules in this place and they apply equally to everybody. Hon Graham Edwards knows that better than anyone else.

Hon Graham Edwards: I accept that.

The PRESIDENT: If Hon Graham Edwards does not like or believe what the member is saying he will have an opportunity to speak about it in a minute. I will ensure he will also be able to speak without interjections.

Hon Graham Edwards: I apologise and accept that what you are saying is correct, Mr President.

Hon N.F. MOORE: I am doing nothing that is not within the standing orders of this House. It is quite proper for any member to move that an alteration be made to the standing orders. If it is done by notice the House can resolve to suspend standing orders. It has occurred on many occasions since I have been in this Parliament.

Hon N.D. Griffiths: That is why you changed the rules.

Hon N.F. MOORE: It is also appropriate for the Leader of the House to change motions on the Notice Paper. That was a prerogative Hon Joe Berinson enjoyed; it is now mine. I have no problems moving this or the subsequent motion in the event we agree to debate it. As I was saying before I was interrupted, I am doing this to ensure the Bill is debated. It is a crazy situation because I am seeking to move a motion to ensure that the Opposition has a chance to debate the Labour Relations Legislation Amendment Bill.

Hon Tom Stephens: It will be read on 22 May.

Hon N.F. Moore: The great irony is that the recent activities of the Opposition have been to ensure that they do not debate the Bill.

Hon Kim Chance: The opportunity is limited by your sessional order.

Hon N.F. MOORE: Members opposite do not want to debate it; yet we are being told by them and the media that somehow the Bill is being rushed through the Parliament. We sat here for many hours last night listening ad nauseam to people debating a motion.

Hon Kim Chance: We were debating your motion; not ours.

Hon N.F. MOORE: They could have been quite easily debating the Bill.

Hon Tom Stephens: Now you have moved another one.

Hon N.F. MOORE: It was not necessary for all 14 members to say the same thing one after the other. Each speech was a rubber stamp of the previous speech.

Hon Tom Stephens: There were 13 speakers, not 14.

Hon N.F. MOORE: Fortunately Mr Stephens did not make a speech. Without standing orders being suspended so that motion No 5 could be resolved, it would be possible for this House to sit over the next week and a half without spending much time debating the industrial relations legislation. That would be an unfortunate state of affairs.

This is a procedural motion to ensure that motion No 5 can be dealt with. I will go into more detail about what motion No 5 means in the event that we reach it later this evening.

HON N.D. GRIFFITHS (East Metropolitan) [4.24 pm]: This motion is being moved by the Leader of the House as part of the process of ramming through the Labour Relations Legislation Amendment Bill before 22 May. It has been moved to prevent proper scrutiny of the Bill. It is part and parcel of an outrageous process which has flouted the traditions of this so-called House of Review.

Once again we start a day with the Leader of the House taking off his velvet gloves and showing us his very rusty iron fist. The Leader of the House wanted to know what standing order we would use next to voice our objection to his outrageous motion. We have referred him to standing order 17:16 on many occasions. I think everybody now knows what it means.

Hon N.F. Moore: Are opposition members saying that they will not use it after 21 May?

The PRESIDENT: Order! I do not know whether people have gone stark raving mad. Why suddenly must we behave in this manner?

Hon Bob Thomas: Too much sleep!

The PRESIDENT: Is that what it is? If members keep on like this none of us will get any sleep for a while. Each member is allowed to speak; each is entitled to be heard. Members do not have to like it or believe it, but they must listen. If everybody keeps quiet we will make progress.

Hon N.D. GRIFFITHS: Thank you, Mr President; I hope that everybody will like what I have to say after they have listened to me in accordance with your direction.

I was about to enlighten the Leader of the House of the new categorisation of standing order No 303 on which he is relying.

Hon Kim Chance: It is standing order No 17:16.

Hon N.D. GRIFFITHS: No, standing order No 17:16 has been superseded by standing order No 303. He is putting the proper procedures of this House against the wall and assassinating them. I regret that his dealing with the processes of this House will remove any reputation it may have as a House of Review. He is doing that by ramming through the Labour Relations Legislation Amendment Bill without scrutiny. When he does so there are certain consequences. You, Mr President, more than anyone, are aware of the standing orders.

There is one standing order of which every member in this House takes great note and has the opportunity to use regularly, irrespective of their standing, party or involvement with day to day legislation. It enables them to raise matters of substance concerning their community, local or international events or anything of significance that they see fit to discuss. That of course is standing order No 152 which I think I should read so that I can place in context my next observations -

Motions shall have precedence each day according to the order in which they appear on the Notice Paper, and, if called on and not disposed of prior to the adjournment of the Council, shall be placed on the Notice Paper for the next sitting.

I will not describe how their order on the Notice Paper is arrived at because that is well-known. It is a question of precedence - in reality, first in, best dressed. What could be more reasonable in a parliamentary sense than that? When the Leader of the House proposes that we deal with motion No 5 of which notice was given on 6 May he is saying that he does not care whether motions Nos 1, 2, 3 and 4 are dealt with. The bottom line is he is a member like everyone else, but he wants his motion No 5 dealt with first. He does not want to listen, as we should be listening today, to Hon Kim Chance's concerns about why the thirty-eighth report of the Standing Committee on Government Agencies on Golden Egg Farms should be an Order of the Day.

I will not go into that issue, but I will point out a couple of matters from the report dated November 1996 which require reasonable debate, which we will not hear today. Denying debate is wrong, particularly bearing in mind that Hon Kim Chance gave notice of his motion on 29 April. Why must we wait any longer to hear about this very important issue, which should have been debated last year? By the time we hear about this report, we will be into the next millennium - it will be a little stale.

Many of us wanted to hear from Hon John Cowdell and others with an interest in Notice of Motion No 2. I will read it out because it is important to learn what the Leader of the House wants to postpone. Hon John Cowdell gave notice on 29 April of his motion -

That the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh reports of the Commission on Government Joint Standing Committee be made an order of the day for the next sitting of the House.

I want to know why the member wants to make those reports an order of the day. I am sure when he tells us about the matter, he will make important observations about them. We should deal with them before we deal with the motion of the Leader of the House.

Notice of Motion No 3 relates to the thirty-sixth report of the Standing Committee on Government Agencies, "State Agencies - their nature and function", and seeks that it be made an order of the day for the next sitting of the House. We would also like to deal with that motion.

Hon N.F. Moore: What about the urgency motions moved every day for the last four years?

Hon Kim Chance: They were of great benefit to the people.

Hon N.D. GRIFFITHS: The Leader of the House is putting to me by way of interjection a proposition that somehow or other -

The PRESIDENT: Order! The member's colleagues are rudely carrying on a meeting in the Chamber. Do members not want to listen to Hon N.D. Griffiths' interesting comments?

Hon N.D. GRIFFITHS: I think they will read them in *Hansard*. The Leader of the House has advanced the proposition that because of the awful state of affairs in Western Australia in 1996, members of the Opposition, among others, felt compelled to raise matters of urgency before the House on almost every sitting day. It is invalid to say that Notices of Motion Nos 1 to 4 should not have precedence over Notice of Motion No 5.

Hon N.F. Moore: It is hypocrisy; it is rubbish.

Hon N.D. GRIFFITHS: I am surprised that the Leader of the House would make such a rubbishy interjection. He is now taking evasive action and acting in good conscience at last in leaving the Chamber.

The fourth motion on the Notice Paper bears consideration in the light of the events of recent days. I remind the House of the motion in case members have had such little sleep that they no longer have the capacity to read the Notice Paper. I am looking at some members who could not fall into that category as they are catching up on sleep; I am not pointing the finger at anybody.

Hon B.K. Donaldson: We are quite capable of reading it.

Hon N.D. GRIFFITHS: I think the member is sleep talking.

The PRESIDENT: Order! I am interested in what the member is saying and I am trying to listen.

Hon N.D. GRIFFITHS: I am raising my voice more than normal because I know you are interested, Mr President. The fourth motion reads -

That the statement of Hon Paul Sulc to the House last night regarding the denial of his access to the Parliament be referred to the House Committee to assess whether it is now appropriate to introduce a system of identity passes for the Members of the Parliament for access to Parliament House.

I am worried about what Hon Norman Moore has in mind if such a system were introduced, given the procedures he is adopting to block our proper scrutiny of legislation; the Opposition considers that process to be outrageous.

The bottom line is that members should be able, particularly in a House of Review, to speak their minds freely, and to have the capacity to do so without being fettered by unreasonable changes to the rules which govern our activities. The standing orders contain sufficient constraints to prevent members speaking on matters of irrelevance. In that case, Hon Norman Moore's proposal is rubbish. He should desist from proceeding with this motion.

HON KIM CHANCE (Agricultural) [4.36 pm]: I oppose the effect of the motion moved by the Leader of the House; that is, to promote Notice of Motion No 5 over the top of the four motions which precede it.

Hon N.D. Griffiths: Shame.

Hon KIM CHANCE: Hon Nick Griffiths has indicated the nature of motions Nos 1 to 4, but the House may be interested to discover the dates on which notice was given for these matters: Notice of the first three motions was given on 29 April, and notice was given for motion No 4 on 1 May. However, the Leader of the House proposes that we deal with a motion for which notice was given on 6 May.

The motion before us will prevent discussion on important motions and orders of the day for no other purposes than serving the interests of the Executive Government. It will allow the Executive Government in this place to overrule the wishes of the majority of this House - certainly the majority of members after midnight on 21 May. This very matter was condemned by the Royal Commission into Commercial Activities of Government and Other Matters and the Commission on Government. However, here we are happily bowing to the demands of the Executive Government in debating a specific issue.

Last night I referred to the difference in the way we treat matters in this place, and the difference between trivia and real issues. This motion and its effect are trivial; it is procedural nonsense and a red herring designed to move the House in a particular direction to prevent us giving attention to matters of real concern to the people of Western Australia.

One such issue has already been mentioned by Hon Nick Griffiths; namely, consideration of the Standing Committee into Government Agencies' report on Golden Egg Farms. Notice of this motion was given on 29 April, and I sought to restore consideration of that report to the Notice Paper for a number of reasons, not the least of which was the fact that the report was tabled in this House six months ago. The people whose livelihoods were affected by the issues which led to that inquiry lost their entire life's savings - they were not unionists, but small business people - because of a decision made by a government agency in a matter that so concerned the Standing Committee on Government Agencies that it devoted the resources of a standing parliamentary committee to consider the issue. That was six months ago and members are still to consider the issue in this place.

Another issue which makes it even more imperative that this House should deal with the Orders of the Day in the order they appear on the Notice Paper is that one of the recommendations of that report, which was tabled six months ago and which anyone can read, was that the report should be passed to the appropriate Minister, the Minister for Primary Industry, for his consideration and advice. I believe the Minister has since replied to the committee, but I

cannot tell the House or the people whose life's savings are at risk what is in his letter because it is still bound up by the privilege of that committee. That situation will remain until there is a resolution by the committee to make the Minister's letter public. I am sure it will be an interesting and informative letter and a proper and appropriate response to the committee's report. The committee must debate the issue and move for the publication of that letter, if it sees fit. It has not had the opportunity to meet. It was to have met this morning, but as chairman of the committee I called it off because the House sat until 3.15 this morning. I did that in the interests of the health and safety of the members of that committee. The people who are affected by the outcome of the report are still in limbo. They have the report, but there has been no consideration of it and for that reason there has been no action.

For how much longer will we put off issues which are so vital? I make it clear that it is not the fault of the Government or the House that the Parliament was in recess for a long time. Members understand that committees do not have effect during prorogation. Given those circumstances there is every reason for this House to get on with the business that was left over from the previous Parliament as soon as it possibly can. The committees of this House have not been up and running because of some nonsense from members opposite. They could have been operational from the first week of this Parliament, but the House was not able to do that. Now the Opposition finds it cannot deal with the business of committees, even though they are operational, because the Government wants to deal with its industrial relations legislation and to hell with the business of the Parliament! I find that unacceptable.

I do not intend to speak for very long on this issue, but I want to refer members to the first item under Orders of the Day. The effect of this motion to debate Notice of Motion No 5 before Notice of Motion No 1 is to debate a Bill and that will prevent the House from dealing with Order of the Day No 1. Order of the Day No 1 is a motion I placed on the Notice Paper to disallow a management plan gazetted under the Fish Resources Management Act which deals with the fishing of pink snapper in Shark Bay.

Hon John Halden: The Leader of the House was critical of the Opposition yesterday for bringing what he said was a trivial matter to the House.

Hon KIM CHANCE: That is right. In fact, Shark Bay is in the Mining and Pastoral Region. It is not in my electorate.

Hon Graham Edwards: Did you show him where it is on the map?

Hon KIM CHANCE: Perhaps I should show him. His electors at Monkey Mia resort are losing thousands of dollars each week from the cancellation of bookings because on 1 May the fishing of pink snapper was banned in the eastern gulf region.

Hon E.J. Charlton: Why?

Hon N.D. Griffiths: We want to find out why.

Hon KIM CHANCE: There is a cloud hanging over the catch which may be permitted by amateurs in the western gulf region.

The Minister representing the Minister for Fisheries asked why. I would love the opportunity to debate it with him, but the Leader of the House is denying me the opportunity because he has moved that the Labour Relations Legislation Amendment Bill shall take precedence over that issue, even though the sessional orders which were put in place on Tuesday last week would have given precedence to this matter being debated tomorrow. I could carry on like this forever, but I have probably made my point.

Hon John Halden: You have made the point that you do not support the motion.

Hon KIM CHANCE: I have done that. This morning on ABC radio I heard the Premier say that the Opposition - perhaps he even said specifically that it had been the Labor Party - had used procedural issues to delay debate on the Bill. I hope I am not misquoting him, but he even went so far as to say that the Opposition did not want to talk about the Bill.

Hon N.D. Griffiths: What absolute rubbish.

Hon KIM CHANCE: I would hate to misquote him, but I am sure that is what he said.

Hon E.J. Charlton: You said today you did not want to speak on it until after 21 May.

Hon KIM CHANCE: I thank the Minister for Transport - he is a man of justice and truth. That is exactly the point. The Opposition is delighted to talk about this Bill. It has been wanting to do that for a long time.

Hon N.D. Griffiths: And we will for a long time.

Hon KIM CHANCE: As soon as the House is structured in the way the electors of Western Australia deemed; that is, post midnight 21 May, the Opposition will talk about it with enthusiasm and vigour. If the Opposition can prevent the House talking about it until then, it is reasonable for it to use any means it can to prevent that happening simply because it is not just. I said last night, "It might be legal, but it ain't right."

Another issue on which I want to make a public statement relates to the Premier's indication that the device the Opposition has used to avoid getting to the subject of the Bill has been procedural motions. I am very conscious that my comments will be in *Hansard* and that I may appear to be self-contradictory, but members should be clear about the nature of the procedural motions that have occurred since Tuesday last week when the Bill had its first reading. Since then this House has dealt with four procedural motions. Certainly there have been variations to the procedural motions by way of amendments to try to improve the motions and fundamentally there have been four procedural motions. The Opposition moved only one of them. The other three were moved by the Government. The House has had three variations of sessional orders from the Government and, of course, the Opposition spoke on them. If the Government gives the Opposition an opportunity to talk on a motion which prevents debate on the industrial relations Bill, it will do so. It will talk all day if it can. One of the procedural motions - the contingency motion which asked the House to defer consideration of the Bill until 22 May - came from the Opposition. The others were handed to the Opposition on a platter by an ever compliant Government. I thank the Leader of the House for his help. If he can come up with a few more, the Opposition will debate them. The Opposition will deal with the Bill faithfully and vigorously, which is what members are paid to do. I cannot apologise. I contradict the Premier's statement that the Opposition has used procedural means to hold up the Bill. Thankfully, those means have been provided by the Government.

This is another one of those means. I do not count this motion as one of the four. It is a means of getting to the fourth of those four procedural motions. The House should not deal with Notice of Motion No 5 now; it should deal with the Notices of Motion in the order they appear on the Notice Paper.

HON GRAHAM EDWARDS (North Metropolitan) [4.50 pm]: I strongly oppose the motion moved by the Leader of the House and support the arguments of my colleagues, particularly the argument put so ably by Hon Kim Chance on our need to deal with Motion No 1 on the Notice Paper. It is important that we deal with this Golden Egg Farms issue, because it is about some small businessmen in our community who, acting in good faith, were caught by policies of this Government which will mean they will lose their life's savings. On 23 August 1995, those people petitioned Parliament about the termination of their contracts. This matter has been before the House and before committees of the House for some time. It has not just materialised. This is a very serious situation confronting ordinary small business people. Do members think they will get a fair go from that mob opposite? The Government and particularly the Leader of the House, who has been given the responsibility of ramming the Labour Relations Legislation Amendment Bill through this place, have lost sight of all fairness and all reasonable capacity to listen to an argument and respond reasonably. The Government is single-mindedly focused on getting the legislation through this Parliament by 22 May by fair means or foul. We all know why it wants to get it through by that date. Hon Ross Lightfoot is due to go to Canberra, and on 22 May the numbers in this place will change.

Reasoned argument on the labour relations legislation is being put by reasonable people in the community. The union movement and other concerned people have been putting reasonable arguments about why it should be delayed. I am very proud of the very reasoned arguments in support of the delay of this legislation that have been put by my colleagues in this Chamber. However, the Government is not listening. The Government and the Leader of the House are being driven by their bosses at the Western Australian Chamber of Commerce and Industry and the members of the 500 Club because they are about the only groups in this community who want this legislation passed. They have a vested interest in this legislation being passed by this Parliament. We know that the coalition parties, particularly the Liberal Party, have to listen to and take their orders from the CCI and from the members of the 500 Club.

It is interesting that we have not heard a single reasoned argument from members opposite. Not one member of the Government, apart from the Minister who has moved the motions, has supported the motions with a reasoned argument. All we have had from members opposite is silence. They know they have the numbers and they intend to use them before the democratic change that will take place in this Chamber on 22 May.

There is no way that the labour relations legislation being pushed through this place by the Minister should take precedence over the reasonable petition that was put to this place by small business people on 23 August 1995. They are ordinary Australian family people who stand to lose their life's savings. Why should the 500 Club and the CCI be able to tell this Government and this Minister to use everything in their power to get this legislation through this place to the cost of everybody in the community who has a fair and reasonable argument and to the cost of those who stand to lose their life's savings? They are not interested in them. They want this legislation passed because, at the end of the day, it will mean more profits to them and they will have crushed the union movement, the workers, and

the little people of this State. That is what this Government stands for and that is exactly what the motions moved by the Leader of the House mean to the people of Western Australia. Is it any wonder that members opposite hang their bloody heads in shame?

The PRESIDENT: Order!

Hon GRAHAM EDWARDS: None of them is prepared to support or defend the legislation. They are relying on one thing and that is that they have the numbers. Every other reasonable consideration has gone out the window. This Government should be condemned for the things it is doing in this House before 22 May.

I conclude on this point. Not only has the Government shown itself to be transparent, but also when it moves these sorts of motions, it tries to blame someone else. This Government's history since it came to power has been to blame someone else for everything it does. First it was the Keating Government; now it is the Howard Government. Members opposite are like cannibals - they eat their own! If they are not blaming Canberra, they are blaming Aborigines, workers or unionists. They have the numbers and the ability to do what they like within the standing orders. However, who are they blaming for having to push through this legislation? They are blaming the Opposition.

We have this incredibly obnoxious situation in this House because the 500 Club and the CCI are dictating to the Government and not one member opposite has the guts to stand up to them and stand up for fairness and equity in this State. I oppose the motion.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.58 pm]: The Opposition is implacably opposed to the processes that have been put in place in the past 48 hours to gag and guillotine through this House unconscionable labour laws. This motion, if carried, will enable the Leader of this House to move Motion No 5 from the bottom of motions on the Notice Paper to the top. The House will then be required to deal with the motion early this evening. When that motion is passed, the House will then move to deal with the Labour Relations Legislation Amendment Bill. There are a limited number of things that we can do to get the Government to be reasonable in its consideration of these matters.

In the end the processes of this place grind inevitably on. They have the effect of eventually delivering to the Government the opportunity for this debate to be brought to a conclusion. At the end of this debate the Labour Relations Legislation Amendment Bill will be before the House.

[Questions without notice taken.]

Hon TOM STEPHENS: Currently before the House is a very serious motion. It will bring into effect the complete arrangements for gagging and guillotining the processes of this House in such a way as to ensure this Government has an improved chance of getting the House to do something it should not do before 22 May. If passed, this motion would effectively result in a process whereby a new order would be in operation and the Labour Relations Legislation Amendment Bill would be put firmly before the House in such a way that opposition members, or any other member of the House, could do nothing to prevent its progress. The only person with control over the processes of this House would be the leader of the Government in this place. This Government has demonstrated that it is unfit to be in office or to be in control of this House. The Government has been unceremoniously shown the door of this place by the people of Western Australia. They may have momentarily trusted the Government with the Treasury benches, but in this place the people want the Government to go through a review and checking process that would not give it the opportunity to pass motions to gag and guillotine debate in this House. The Government should have the good sense not to introduce legislation such as that proposed, because it will not do the State any good. If the Government allowed the House to sit for six more scheduled days, it would allow the democratic process to be followed that the people of Western Australia voted for. That would be the end of Ross Lightfoot in this place.

Hon P.R. Lightfoot: Hon Ross Lightfoot.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): The member's correct title is Hon Ross Lightfoot. Until such time as he is transported elsewhere, he continues to have that title.

Hon TOM STEPHENS: That may well be his correct title, but we all know where he should be, and it is not in this place. We know that, he knows that and he should get out of this place. The coalition Government is clearly on borrowed time.

Hon P.R. Lightfoot: You are intoxicated with your power. I am not intoxicated with my power.

Hon N.D. Griffiths: What are you intoxicated with?

Hon TOM STEPHENS: The jippie beans he keeps taking.

The DEPUTY PRESIDENT: Order! If Hon Ross Lightfoot will refrain from interjecting, perhaps the Leader of the Opposition will complete his remarks.

Hon TOM STEPHENS: The sooner this Government recognises it is on borrowed time, the better. That borrowed time is being abused and misused in this House in motions such as that being debated tonight. These dying days of the current Legislative Council are being used to introduce repressive and divisive laws. They are repressive laws that will turn on the ordinary working men and women of Western Australia, and will produce a divisive result. It will result in shame for Western Australia, and disgrace for the Government. Such a result is not needed at this time, let alone any time. All members in this House know that, the community knows it and the media know it. The slowest learner in this State is the Government of Western Australia. It knows these revolutionary laws are not designed to improve the lot of the people of Western Australia; they are designed to make sure the ordinary people will no longer have available to them the protection of the union movement, and will no longer have the rights to which they have been entitled up to this time.

The Government knows that with the passage of these two motions, it will force the Bill through the House by means of the guillotine laws which will doubly disadvantage the people of Western Australia. We have already seen a broad range of community opposition to these laws, and the Government should respond positively to that opposition. It should stop this process before it does itself the enormous damage it has already inflicted on the community.

Conservative Governments after 22 May will no longer have control of this place, therefore a new order will come to the upper House, to which the Opposition looks forward. We see again in the President's Gallery people who are desperate to join this place and vote against such legislation which will come before the House by virtue of these two motions.

The Government knows that it has no mandate for the legislation. Members opposite will be told about that later as eventually the Government will be turfed out of office by the people of Western Australia. The Government should recognise the seriousness of the irreparable damage its actions are inflicting on the State. Regrettably, in the lead-up to elections sometimes it is easy to sell the following line: What is the difference between Labor and Liberal when in office? However, times like this patently bring home the differences between the parties.

Members opposite know, as do the people of Western Australia, that the Government is determined to damage ordinary working men and women of this State, and to damage its political opponents through components of this law. It may succeed in the short term. However, what is unleashed will return on the heads of government members as they will pay the price although, regrettably, that may not occur before the next election.

One thing is for sure: Never again will the people of Western Australia entrust to members opposite control of this House! That will result from this motion and the legislation which will follow it. If the working men and women of Western Australia maintain their rage, as I suspect they will, members opposite will no longer be entrusted with the Treasury benches. As soon as we go to the people, the shame in which members opposite participate with gags and guillotines to force through this illegitimate legislation will return upon the Government.

The Government does not have a legitimate mandate; its former mandate was taken away at the last election. I call on the Chamber to have the good sense to recognise that these motions should not be carried. The gags and guillotines shame this place. Hon Ross Lightfoot, in particular, has no right to be here and should not participate in the vote or debate on the Bill when it comes before this place.

HON TOM HELM (Mining and Pastoral) [5.44 pm]: The motion before the House will move a notice of motion from fifth to first position on the Notice Paper. If one recalls the debate which concluded at approximately 3.45 this morning, we discussed a motion designed to guillotine a Bill in this House. The Minister handling the Bill, Hon Peter Foss, is once more away from the Chamber on urgent parliamentary business, and again chooses not to involve himself in the debate. This motion will allow him to ride roughshod and do all he pleases to ensure the Bill is passed, and that is why the Labor Party and members on this side of the Chamber ask members to vote against it.

There is a strange smell about this motion - it is the smell of fear. Members opposite have a right to be fearful. It is to their shame that members opposite keep their mouths shut and do not speak on this historic matter. They will never again be able to lift their heads in the community as they will fear, and pay for, this action for the rest of their political lives.

Members opposite will realise what this House is about on 22 May. The Minister handling this Bill, who is on parliamentary business outside the Chamber, is the ideal man to handle a Bill of this nature which will change the lives of every Western Australian - not only trade unionists; members must remember that union rights are civil rights. The Minister, who has more important things to do than be here, is the ideal man for this job as he thinks that workers should be kept in their place. He says that managers should have the right to manage. He will pursue this Bill which

Minister Kierath puts before us to the bitter end, as he did when he represented Peko Wallsend before he came to Parliament. He shows the right amount of arrogance and contempt for this place for that job.

Members will recall that I was a member of this House in 1986 when a Labor Government was in power. At that time Hon Peter Foss berated the ALP Government for, among other matters, not pursuing the democratic principles for which we are elected. By moving this motion, the Leader of the House proves his contempt for democratic principles. He wants to move the motion, for which notice was given only yesterday, ahead of other motions before it on the Notice Paper. Surely, that is stacking arrogance upon arrogance. Surely, some member opposite will say something. They must understand that the legislation is opposed not only by the ALP and the union movement, but also by at least 30 000 plus Western Australians who are outraged by the activity of these two Ministers and their Government. It is a disgrace.

As I said last night, *The West Australian* editor, Paul Murray, has constantly said that we need to take another look at this Bill. An opportunity is available for the House to reflect on what people want. However, motions are moved which specifically forbid us to debate this matter in the appropriate manner.

A sheet of amendments to the Bill are foreshadowed following debate in the other place; of course, the guillotine was applied in that Chamber, but drafting mistakes and unintended consequences were still discovered. The Trades and Labor Council and the ALP tried their best to amend the Bill in the other place, but that will not happen in this place.

The Leader of the Opposition and Hon Kim Chance were right: We will take whatever steps are necessary to ensure that the Bill is not voted on before 21 May. We are entitled and justified to have this Bill debated when the House is properly constituted. The people elected on 14 December should take their places in the Chamber. What are members opposite frightened of; why are we getting this smell; and why are they so silent on the matter? At the time of the ALP Government, members opposite certainly spoke about democratic principles and uniform legislation. Quoting Hon Peter Foss' speeches as recorded in *Hansard* when he was in opposition would indicate a different kettle of fish.

Hon Doug Wenn: We do not have that much time left.

Hon TOM HELM: Right. It is a pity. Members opposite have their heads down; they are afraid to look us in the eye - one can smell the fear. These people are hypocritical as they say different things in different circumstances. When those opposite go home, when they listen to the radio, when they watch television, when they talk to their families, they know they are doing the wrong thing. The Australian Democrats have discussed this matter at a federal level and have come to a compromise. Why on earth are those opposite afraid of the Democrats? Is it because they have been told by the Democrats that this is a nonsense piece of legislation, that it has no legitimacy, that it has been introduced to this place by those who have no time for the democratic processes? As I said last night when the Leader of the House moved the guillotine motion, those opposite might try every trick in the book, but they will never defeat the union movement - never. This motion can be moved and debated now and, of course, because those opposite have the numbers, we will not win.

Hon Cheryl Davenport: But they never open their mouths.

Hon TOM HELM: That is right. As individual members they will never justify the reasons this motion must be debated now. Not one from those on the other side, apart from the Leader of the House, will speak in support of this motion. Sometimes I wonder who should be wearing the wig - who are the sheep in this place, who can practise democracy? Quite often Hon Peter Foss said this: We are all individuals; we are Liberals; we do what we please; we are not subject to Whips, to the discipline of the Caucus room. Quite frankly, I have never hidden from the fact that I am a very proud member of the Australian Labor Party and, of course, I will be subject to the majority rule within the Caucus. What hypocrisy! How can those opposite say they are individuals, that they can express a view and vote in the way in which they want? Of course they cannot.

I want to know this: Do they get the same questions from members of their family when they go home as I get from my son about the significance of 22 May and why it is important to the people of Western Australia?

Hon Bob Thomas: Democracy day.

Hon TOM HELM: That is what I say to him. I tell him that I am angry, I am loud, I am unionist and I am proud because the people of Western Australia have agreed there should be changes here, that although they wanted a coalition Government - God help us, that is what they got - in this place they wanted the big checks and balances that democracy can bring about. Before those checks and balances can be put in place, the mob opposite wants to make sure every step is taken to avoid proper scrutiny of this legislation. Those opposite are so frightened of having a proper view of the legislation because of what we might find if we look - not at what was in the Bill in the other place, but what was negotiated with the Trades and Labor Council and the Australian Labor Party behind closed doors

which resulted in the sugarcoating on the excreta that this legislation is, the sugarcoating that the amendments are supposed to bring. Those amendments are worth two pounds of salt. The Minister who has responsibility for the legislation, who sits in the other place, and the Premier have told us that they tried to compromise, and that has been seen for what it is - worthless. In normal circumstances that compromise would, and should, take place here, in the House of Review. It has a role to play, but those opposite will make sure that it will not do so.

Hon Peter Foss is happy to carry this legislation through this place. He believes working people and their representatives have no right to a say, that the people with the money - the capitalists - and the people who invest money have more rights than those who invest their life in their job. Western Australia has not agreed with it, nor will it. If the people in this State agreed with that, in spite of the mandate, we would still have an upper House dominated by conservatives. At midnight on 21 May 1997 the composition of this House will change, because the people of this State said it will.

Those opposite do not think anything has changed. They are determined that their power which comes without the authority of the people will be maintained. If there was one skerrick of justification for what those opposite are doing, surely one or two would have something to say or would say, "Hang on, comrade Helm, you are a bit out of order here; we think this is justified because of blah, blah, blah."

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! Perhaps this is a good point at which I can interrupt the member's speech and suggest that in the remaining five minutes before the dinner suspension he should address the question; that is, that motion No 5 on the Notice Paper be taken forthwith and resolved at this day's sitting. The member is wandering far, and I have given him a lot of latitude; however, I ask him to bring his comments back to the motion.

Hon TOM HELM: I have been trying to demonstrate the reasons we should not agree to deal with the motion forthwith. The motions are placed on the Notice Paper in a proper and authorised way. We are departing from the norm, to a large extent, by dealing with a motion that is No 5 on the Notice Paper forthwith, as though it were No 1. Those opposite wish to do that so they can use a power which they do not have, which they are clinging onto because of the numbers in this place at the moment, the power that the people of Western Australia refused them. On 22 May that power will be taken from them. If those opposite firmly and honestly believe this motion should be dealt with straightaway, that they have a right to reduce our ability to review the legislation, why will not one of them, other than the Leader of the House who obviously has someone pulling his strings, tell us the reason? Why is it that only members on this side of the House are saying that this motion should not be agreed to because this motion to gag the debate is undemocratic and not a proper reflection of what the people of Western Australia want?

Hon Bob Thomas: They are embarrassed.

Hon TOM HELM: It has been pointed out before that those opposite have their heads down. I am trying to convince at least one of the 17 opposite - just one - to give a reason for our debating this matter now and not leaving it to be dealt with at No 5 on the Notice Paper. That is not a big ask. If those opposite are really keen about this matter, if they think it is important and that the State is in such a bad way, that we have industrial anarchy out there, that we have wild trade unionists out there - I have not seen them yet - I ask them to tell us. I am sure it would be difficult, to say the least, to argue that point. Some members opposite may leave the Chamber and some may spend a lot of time here, but it is incumbent on those members of the coalition who feel we must debate this matter now and not leave it as No 5 on the Notice Paper to say so. No, we will not hear one of them defending this motion - it is indefensible. It is a sign of the arrogance of the coalition in this House. When this House sits after 22 May, we will see democracy in action. I suspect the Bill will be in place and proclaimed; however, we will still see the activities of trade unionists, of the working people in this State. I oppose this motion.

Question put and a division taken with the following result -

Ayes (17)

Hon A.M. Carstairs
Hon George Cash
Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans

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

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

Noes (13)

Hon Kim Chance
 Hon J.A. Cowdell
 Hon Cheryl Davenport
 Hon E.R.J. Dermer
 Hon Graham Edwards

Hon N.D. Griffiths
 Hon Tom Helm
 Hon Mark Nevill
 Hon J.A. Scott
 Hon Tom Stephens

Hon P. Sulc
 Hon Doug Wenn
 Hon Bob Thomas
(Teller)

Question thus passed.

Sitting suspended from 6.05 to 7.30 pm

Order - Consideration of all Stages

Point of Order

Hon KIM CHANCE: The Leader of the House now intends to deal with the notice of motion given yesterday in relation to the sessional order. It is my understanding that in moving a notice of motion, the standing orders require that the notice of motion should specify the day on which the motion will be moved. It is not my recollection, and I thought I was listening carefully, that in giving notice of the motion yesterday the Leader stated that the motion would be moved on this day. I sought to determine today, as *Hansard* became available, whether those words were contained in the notice of motion. It was then that I discovered something I should have known; that is, that notices of motion are not recorded, which in itself is something of concern to me, but that is a matter for another time.

I have also sought confirmation from the Minutes of yesterday's proceedings, but was unable to confirm to my satisfaction, that the Leader of the House referred to the day on which the motion would be moved. It is my understanding that the notices of motion are recorded according to a form that does not include the words "at the next day's sitting", which would be proper. It is not my recollection that the Leader used those words in giving notice, and I regret that the information available to me does not confirm that the proper form of notice was given.

The PRESIDENT: I am advised that the Minister did use the words. However, I can tell the member no more than that.

Hon KIM CHANCE: Mr President, with respect, how can the House be certain that your advice is correct?

Several members interjected.

Hon KIM CHANCE: I believe the President has been advised.

The PRESIDENT: I cannot follow the member's point because, when members give notice of a motion, that notice indicates that at the next day's sitting the motion will be moved subject to all other standing orders. The Notice Paper states -

The Leader of the House to move that on the next day of sitting -

Unless a notice of motion gives a date other than the next day, that motion is available to be moved at the next day's sitting. If a member gives notice that on Pancake Day or Shrove Tuesday he or she will move the relevant motion, that restricts that member to moving that motion on that day. If members simply give notice of a motion, and do not mention a specific date, it is implicit that it will be moved on the next day of sitting.

Hon KIM CHANCE: I have some difficulty with that point, and that is why I felt the need to raise the issue. My concern was first raised because I felt certain that, in giving notice, the Minister said "I move". I acknowledge that both my hearing and recollection could be faulty, but I have been unable to confirm from the official record of the Parliament that he said anything other than what I recollect. The only record kept of what the Leader said on that occasion is the taped record.

The PRESIDENT: Standing Order No 150 simply provides -

No notice or contingent notice shall have effect for the day on which it is given.

I have just advised that the record shows that the Minister did refer to the next day of sitting. I cannot do anything more than that.

Hon KIM CHANCE: I appreciate that advice. That is why I referred to the Minutes of yesterday's sitting to find that confirmation in the absence of a record of notices of motion in *Hansard*. I found that the Minutes of this place in

respect of notices of motion are simply taken proforma; there is no evidence that the correct words were used by the Minister because, whatever words he used, the words shown in the Minutes are the words as laid down proforma. For that reason, I found myself at a loss to determine what words had been used.

The PRESIDENT: If the member were to read Standing Order No 150, he would note that the notice of motion will not have effect for the day on which it is given, which means it must have effect the next day.

Hon KIM CHANCE: This is where my difficulty arises.

The PRESIDENT: What is the member asking me to do? We have been dealing with notices of motion, and once such a notice is on the Notice Paper it is available to be dealt with on the next day of sitting unless the motion stipulates some other date.

Hon KIM CHANCE: Mr President, if I were more impertinent than I am, I would ask that you rule the notice of motion out of order, because in addition to Standing Order No 150 we need to read Standing Order No 141, which states -

Notice of motion shall be given by the Member stating its terms to the Council and delivering at the Table a copy of such notice fairly written, signed by himself, and showing the day he proposes to move such motion.

As well as my recollection and my hearing confirming to me that the Minister did not use the words that are required, we have the question of the notice itself, because the copy which was handed to us did not specify the day on which he proposed to move that motion and is, therefore, contrary to Standing Order No 141.

The PRESIDENT: When a member gives notice of motion, whether it is on that piece of paper or not, the member says, "I give notice that at the next day of sitting I will move the following motion". That is all that is required. Hon Kim Chance is arguing that the Minister did not say that.

Hon KIM CHANCE: That first sparked my attention, but my attention was then drawn to Standing Order No 141, which states "a copy of such notice fairly written" - so it is clearly talking about the written copy - "signed by himself, and showing the day he proposes to move such motion". That means that the copy fairly written shall show the day on which the Leader of the House, in this case, proposes to move the motion. The copy that I have and the copy that every member of this place has does not show the day on which the Leader of the House proposes to move the motion. As such, the notice of motion is invalid.

The PRESIDENT: Does the member want me to give a ruling on it? The member had the whole dinner suspension to raise this matter with me and he did not raise it; he should have done that. I do not write the Minutes of this place and I certainly do not produce the *Hansard*. Certainly, I do not dwell on every word that every member says. However, I do know that the practice of this place is that a member who gives a notice of motion says, "I wish to give notice that at the next sitting of the House I will move the following motion". That conforms to the standing order, because the member is physically or verbally giving that notice of motion. Whether *Hansard* records it or whether the Minutes record it means nothing to me. The practice is the only thing on which I can judge it, because the member knows as well as every other member in this place that this place operates on usage custom, and the custom in this place is for members to do that.

I will not give a ruling yet. I will leave the Chair for a moment to look at the pieces of paper that the member has and that I do not have - papers that the member could have given to me to look at during the dinner suspension, because I have been in my office and going to sleep because members kept me here until four o'clock this morning. I will have a look at this notice of motion. I will check all notices of motion to see whether everybody else is doing it, because I do not believe that is necessarily the case. The member may well have raised a point that will make some of these other notices of motion invalid.

Hon KIM CHANCE: Thank you, Mr President, and I will not keep you long from your consideration, but this motion is different in that it did not follow the normal pattern of those words being used. That is why I was first alerted to it. I express my sincere regret for not having raised this matter with you over the dinner suspension. My reason for not doing so is that the question had not yet been called. You will recall, Mr President, that immediately before the dinner suspension, we had nearly reached the stage where we would have carried the vote to give precedence to motion No 5, and while the matter had been called, the Minister then immediately stood and the House adjourned for the dinner suspension. I felt it improper to raise the matter in any sense until the question had been put. If that has inconvenienced you, Mr President, I am genuinely concerned.

The PRESIDENT: It has not inconvenienced me. It has inconvenienced everyone else.

Hon TOM STEPHENS: Before you leave the Chair, Mr President, may I check on the process that you will adopt? Do you intend to avail yourself of the audio system to listen to the words that were used on this occasion; because with the audio system you will be able to pick up whether the Minister used the words that we do not believe he did use. We believe that the audio system will establish that that is the case.

The PRESIDENT: The Leader of the Opposition should leave me to determine what I will use to make the judgment. I will not come in here and be cross-examined by him or anyone else. I am here to make the judgment, and I will make it. I will leave the Chair until the ringing of the bells so that I can examine the documents that Hon Kim Chance has.

Sitting suspended from 7.58 to 8.11 pm

Ruling by the President

The PRESIDENT: I have examined the Notice Paper to which Hon Kim Chance was referring; I have a copy of the Minutes; and I have had the opportunity to examine the records to establish exactly what did occur when the Minister gave his notice of motion. Before I give my ruling I will repeat what I said previously: This place operates under not only the written rules and laws, but also usage and custom. Usage and custom form a major aspect in regard to some of the rules - standing orders - of this House.

The official record of what occurs in this place are the Minutes. They are indisputable and are the only record of what occurs. I have discovered that the *Hansard* does not record notices of motion. It records the motion when it is moved. That may be something which members may want to consider later.

Hon Tom Stephens, in his usual helpful way, suggested that if I referred to the tape I would find out once and for all what the Minister did say.

Hon Tom Stephens: Can I withdraw that?

The PRESIDENT: Hon Kim Chance would like the Leader of the Opposition to withdraw it.

Hon Tom Stephens: I will stick to his argument.

The PRESIDENT: The tape clearly indicates that the Minister did use the words that are recorded in the Minutes.

Unfortunately, I have no option other than to rule that the Minister has conformed to the practice of this place inasmuch as a notice of motion was given. When he stood and moved the notice of motion he used the correct words. Those words are recorded and the Minutes duly record what he said. In the face of that, I have no option other than to say that Hon Kim Chance's point of order has no validity.

Points of Order

Hon KIM CHANCE: Mr President, I seek clarification of your ruling. Knowing that you have heard the tape, I accept without question that I was mistaken in either my hearing or my recollection of the words used by the Leader of the House when he moved notice of the motion. However, I am left in a quandary with your ruling and Standing Order No 141. That standing order clearly has the effect of requiring the copy to carry the day -

The PRESIDENT: Order! The member cannot debate this now. The practice is that that is not done in this place. He must give notice to debate it. The practice is that it is taken that Standing Order No 150 is the pre-eminent standing order; that is, a member cannot move the notice of motion on the day on which he gives the notice. Therefore, this House has always adopted the principle that unless the notice of motion is contingent on something else, similar to the notice of motion the Leader of the Opposition gave recently, that notice of motion is for the next day of sitting. The Minister used the words and the Minutes record that he used the words. Therefore, I have no room to manoeuvre in declaring the member's point of order null and void. There is no provision for argument about this. Members can move to disagree with my ruling. If they do not like what I have done, I am terribly sorry, but they have only another eight days to put up with me.

Hon TOM STEPHENS: Mr President, I rise on a point of clarification. With reference to Standing Order No 141 and future notices of motion, am I correct in assuming that if a member giving notice of a motion does not comply with that standing order he would have correctly, adequately and appropriately given notice of that motion?

The PRESIDENT: I am not answering questions without notice. That has nothing to do with the situation. I have given the ruling and I am quite happy to have a discussion on it with the Leader of the House or any other member of the House at a later stage. We cannot spend all night talking about that. I direct members' attention to the Leader of the House.

Debate Resumed

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [8.18 pm]: I would like to move motion No 5.

Hon Tom Stephens: I bet you do.

Hon N.F. MOORE: I have every intention of doing so.

[Interruption from the gallery.]

The PRESIDENT: What was that?

Hon N.F. MOORE: It was a bit out of order.

The PRESIDENT: Order! For the benefit of the people in the gallery -

[Interruption from the gallery.]

The PRESIDENT: Order! My words are for the benefit of the people in the Public Gallery, not the debate.

[Interruption from the gallery.]

The PRESIDENT: I advise people in the gallery that in this Chamber we do not do things the way they are done in another place. Everyone is welcome.

[Interruption from the gallery.]

The PRESIDENT: I did not say anything about the guillotine.

[Interruption from the gallery.]

The PRESIDENT: Order!

[Interruption from the gallery.]

The PRESIDENT: The people in the gallery do not have to listen to the debate.

[Interruption from the gallery.]

The PRESIDENT: I am explaining that there are some rules.

[Interruption from the gallery.]

The PRESIDENT: If people in the gallery listen to me, they will realise that I want them to know that I do not intend, unless I am forced, to ask anybody to leave this place, because I agree with what the gentleman in the gallery said. This is the people's place. You are entitled to be here, you are entitled to listen to what is happening, you are entitled to make your judgment on the people who make comments in here; but you are not entitled to disrupt the operations of this place. This is the people's place and the people elected these members to represent them in here.

[Interruption from the gallery.]

The PRESIDENT: You can write him a letter about it. This Chamber consists of people who represent our society. Every one of them is competent to do the job that the people sent them here to do. I have great confidence in the ability of the members of this House to put forward your point of view. While I am sitting in the Chair those members will get every opportunity to put forward the point of view that you want them to put to this Chamber while this Bill is before the House.

[Interruption from the gallery.]

The PRESIDENT: I happen to be here now.

[Interruption from the gallery.]

The PRESIDENT: I will not be bringing anything down. If people in the gallery will not let the proceedings carry on tonight they will be doing a great disservice to the members who are charged with the responsibility of putting forward their point of view. I think you are doing them a grave injustice by suggesting that they are not competent to do that. I think they are competent.

[Interruption from the gallery.]

The PRESIDENT: Well, leave them to do the job.

[Interruption from the gallery.]

The PRESIDENT: You have no possibility of intimidating me or hurting my feelings. I believe that you people in the gallery are entitled to stay there and I am going to try my darnedest to make sure that you do. If you keep on going like this you will obstruct the operation of the Parliament, you will prevent members from debating the Bill -

[Interruption from the gallery.]

The PRESIDENT: I am not doing anything. I must ensure that you people keep quiet so the members can do their job. Up until tonight the behaviour of the people who have watched the debate from the gallery has been exemplary. Why do you want to disrupt this debate tonight?

[Interruption from the gallery.]

The PRESIDENT: Let me again say to people in the gallery that the debate will proceed with you in here or with you not in here. I plead with you not to behave in such a way that I have to make the decision to remove you. I do not want to make that decision for a lot of reasons, but most importantly I do not want to make it because I believe you are entitled to be here.

[Interruption from the gallery.]

The PRESIDENT: You keep raising points with me that have nothing to do with me. My job is to see that this debate proceeds. Opposition members have demonstrated to me over the time they have been here that they are competent to do their jobs. Why would you interfere with their ability to do that?

[Interruption from the gallery.]

The PRESIDENT: I appreciate what you are saying. The cold, brutal fact is that that motion has already been passed. It is finished with. That argument is no longer current. Will I be forced to talk to you like a schoolmaster?

[Interruption from the gallery.]

The PRESIDENT: Are we going to let the debate proceed or not?

[Interruption from the gallery.]

The PRESIDENT: It is up to you. I am mystified about what you want me to do.

[Interruption from the gallery.]

The PRESIDENT: Do you want debate on the Bill to proceed while you are here, because I believe you are entitled to be here; you should be here?

[Interruption from the gallery.]

The PRESIDENT: Order! Let us proceed. The Leader of the House.

Hon N.F. MOORE: I move -

That -

(1) This order -

- (a) applies to the Labour Relations Legislation Amendment Bill 1997 ("the Bill");
- (b) has effect from the time of its making; and
- (c) lapses when the Bill is finally disposed of by the House but may sooner be amended or revoked by further order or by leave.

(2) An order of the day for a stage of the Bill has precedence of any other order of the day and one or more stages of the Bill may be completed at the same sitting.

(3) Except on motion by a Minister, no question in relation to the Bill for an instruction to a Committee of the Whole House, or to discharge an order of the day, may be put.

(4) A provision of this order has effect notwithstanding any rule or order.

The first part of the motion relates to this Bill. It provides that the order we are debating will relate to the Labour Relations Legislation Amendment Bill only. It has effect from the time the motion is passed and lapses when the

matter is amended, or can be revoked by further order or by leave. That will then provide an opportunity for the Opposition and the Government, by leave, to agree to make changes if that is necessary.

Paragraph (2) relates to the suspension of Standing Orders 143, 243 and 244. This means that in the debate on this legislation the precedence that disallowance motions have over any other motions is suspended so that the House is then able to proceed to debate the industrial relations legislation - which I thought is what we were here to debate anyway.

In the event that this motion is passed, instead of having to report the Bill after the Committee stage, adopt the report and proceed to the third reading on separate days next week it will be possible to do those things on one day. That will, therefore, allow more time for debate during the Committee stage.

I move this motion because I believe the House should debate this Bill.

Opposition members do not want this motion passed because they want to debate disallowance motions until the cows come home so they can then seek some political point by saying that the Bill was rammed through the House and that they did not have time to debate it. Plenty of time is available between now and next Thursday to debate this Bill. If this motion were passed it would facilitate that. It will enable the House to spend many hours debating this Bill between now and midnight next Thursday. As I said at the beginning, it is ironic that I should be moving this motion to try to facilitate debate when those who oppose it are seeking to delay debate until some other time. The House made a decision yesterday, whether members like it or not, to guillotine the different stages of this Bill. I am seeking to ensure that, before the motions are put at the times set, we debate this Bill. To ensure that this Bill is debated properly -

[Interruption from the gallery.]

Hon N.F. MOORE: When I say "properly" I am talking about members having enough time to debate the Bill, rather than going through the processes that the unsuspended standing orders would allow; that is, debate everything else other than the Bill between now and next Thursday. I thought the Opposition would support this motion so they could tell their friends in the gallery what they thought about the Bill and tell us also, rather than talking about, as Hon Kim Chance wants, the first Order of the Day, the Fish Resources Management Order No 1. That is what he wants to talk about all night.

The PRESIDENT: Order! I want the Minister to stick precisely to this motion and not go on with extraneous things.

Hon N.F. MOORE: I take your advice, Mr President.

HON TOM HELM (Mining and Pastoral) [8.33 pm]: Once again we have been forced to watch the Leader of the House cry crocodile tears. Once again we have been forced to listen to the reasons the Government is gagging debate on the Labour Relations Legislation Amendment Bill. We want to see an end to this legislation rather than have to debate it. Once more we have had to watch the Leader of the House speak in support of his motion with no-one on his side supporting him. Once again the people in the Public Gallery have had to listen to words that are less than truthful about how the coalition feels about getting this Bill through before midnight on 21 May.

Anyone who watched the news on the ABC tonight would have seen the Premier and the Leader of the House talking about the Opposition daring to use the tactics of this House that have existed for 103 years to ensure that proper debate takes place on this legislation. We have dared to use the tactics of this House of Review to ensure that the Bill is reviewed properly! Many speakers on this side have admitted - the facts are before us - that the people of Western Australia voted the coalition into government. As a result, the Government is entitled to introduce any legislation it likes. That is its job. However, the people of Western Australia changed the structure of this place so that legislation would no longer be reviewed by a conservative controlled House. For the first time, this House will not be controlled by the conservatives. That will enable legislation to be reviewed properly.

It is ironic, Mr President, that in your ruling you told us - I have heard it said before - that, like most places, this place runs on goodwill and a bit of give and take. In fact, you described it as usage and custom. That usage and custom has existed in this place for 103 years. However, it seems it was okay to use the usage and customs of this place while the conservatives were in control but it is not okay to use usage and custom now even though they are still in control, because they know that in a couple of weeks, the numbers in this place will change and for the first time, the Government can be defeated. Standing order 17:16, the tyranny of numbers, will no longer dictate the rules in this place.

Earlier I congratulated Hon Graham Edwards for his contribution to the debate on the former motion. He spoke from the heart. He spoke about civil rights and doing the right thing. He called for one person opposite who was not a coward or a hypocrite to speak against the Government's proposal. I reminded Hon Graham Edwards that when he was the Leader of the Opposition in this place, and when Hon Kim Chance and Hon John Halden were leaders, they

always told me when I said we should get them and do a job on them, that it would not always be this way. They said that one day things would change and it might be in our best interests not to give them a good kicking. That is what I felt like doing on a number of occasions. As I said earlier tonight, that is what I am used to, given where I come from. If one gets a good kicking, one gives a good kicking and that is the end of it. However, they have told me to act responsibly to see whether we can nut things through in a reasonable way. I have to ask the people who advised me to act responsibly to look at what has happened. This Bill should be debated in a reasonable manner by the new members who were elected on 14 December.

Both sides of this place have attempted to change some of the custom and usage of this place. A committee which included Hon John Cowdell from our side and Hon Bruce Donaldson from the side of the powers of darkness was set up to try to adapt the rules to make this place work a little more efficiently and to bring it into the nineteenth century - we have not reached the twentieth century. They worked on that. We debated it and talked about it in our Caucus room and we agreed to change. Within a couple of days the Leader of this House chucked all that out the window by using the numbers in this place. That attempt to make this place more modern and effective was thrown out the window.

This motion is an attempt to control how we debate the Labour Relations Legislation Amendment Bill. I have a secret from the Caucus room; I might get expelled from the party for telling the House this, but I will do it anyway. I put a position in the Caucus room that we should not go anywhere near this Bill. I said that I believe it is such a disgraceful document that we should not even discuss it. I said that we should spend our time, as we have been accused of doing by Hon Norman Moore, debating these motions day and night, seven days a week for as long as it takes, to make sure that the people of Western Australia know what is going on. Imposing these conditions on the Opposition will not allow it to examine the legislation and correct the many provisions that are wrong.

Hon N.D. Griffiths: These are Hon Norman Moore's motions.

Hon TOM HELM: That is right. When I put that position in the party room, my comrades thought I was on the wrong track.

We again heard the words "act reasonably". We were told to demonstrate that we were not people who wanted to go around bashing people over the head. We do not want to use force simply because we can. It is right that we are prepared to sit here until Hell freezes over rather than debate the Bill, but we want to use the tactics laid down for us because they are all we can use. Our forefathers put them together so that we could use them. If we have the gumption and the guts, if we can emulate some of our comrades over the road and sleep out at night with no heating, no galley to go to and no cups of tea, we can stay in here and debate this for as long as it takes. Of course, the Leader of the House knows that the little jelly beans on the other side get a bit embarrassed, tired and upset and therefore it is a dangerous track to go down. What does he do? He moves motions like this to gag the debate and not give us a chance to argue our case. We will inevitably get to the Bill. We might get through the second reading debate, but once we start to scrutinise the clauses of the Bill and see the mistakes, we will have no chance of correcting them.

I will refer to the motion that the Leader of the House moved last night. Paragraph (6) reads -

If at the time prescribed for the completion of the Committee of the Whole House stage on the Bill, amendments appearing on a Supplementary Notice Paper in the name of the Minister in charge of the Bill have not been moved, or the question for their adoption remains unresolved, those amendments are made by operation of this order when the question for the adoption of the clause or part of the Bill to which they relate is resolved in the affirmative.

It does not matter what we find in those clauses, whether spelling, printing mistakes or whatever; the Minister can get up, move the clause with no debate and it will be passed. Therefore, the Minister is running the place. What are we doing here? I want the *Hansard* to note that the Minister handling the Bill is out of the Chamber on urgent parliamentary business. I am getting a bit sick of this. He is supposed to be handling the Bill. I assume that he is listening to the debate wherever he is, but I cannot see his eyes. I want to see him squirm when we talk about the inequities in this Bill. I want to see all government members squirm. It is nice to see some of them doing it when we cannot see the top of their heads.

Hon J.A. Scott interjected.

Hon TOM HELM: They are JPs' documents. So the Minister is acting on our behalf. Is that not kind? He will decide in the affirmative because he is the one who knows, not we who went to the election and fought hard to be elected and to get a name for ourselves in the party. Members opposite might like that but it sickens me a little bit that they are accepting that kind of attitude. We would not like that on our side, even though we respect our shadow Ministers and our Ministers when in government.

Let us turn to the motion before us. The Leader of the House did not mention paragraph (3), which reads -

Except on motion by a Minister, no question in relation to the Bill or an instruction to a Committee of the Whole House, or to discharge an order of the day, may be put.

Here we have the Minister able to control part of the Bill and he wants to control other matters on the Notice Paper. Members must recall that we were told by the Leader of the House that the Opposition had a cheek to want to debate unimportant matters. We had the cheek to want to get on to the Notice Paper and debate the Golden Egg Farms, for example, or any other matters. The power to allow that was to rest in the hands of the Minister handling the Bill.

Hon Graham Edwards: It was not a question of the Golden Egg Farms but of people losing their life's savings. That mob does not care.

Hon TOM HELM: That is right. I was on the committee that took evidence from some of those people, some of whom have lost their life's savings. We may be able to do something to redress the situation. According to members opposite, that is a petty matter and who really cares? We have to debate this Bill which will not make an iota of difference to this State. The Bill is trying to address things which are not there. We have to do this through the restrictions placed on us by motions like this.

I was told during the dinner break that I would inevitably use the example of the 500 Liverpool dockers who have been on strike for two years. I will not, although I have used it a couple of times. I tried to use that as an illustration of how people will never kill the union movement. It does not matter what motions the Government moves or where it goes, the union movement will always be there. I will tell the House another story from Liverpool. In 1970 the British Government decided to set up a new banking system in the United Kingdom called the Giro Bank. It was handled through post office outlets. It was decided to put the headquarters of the Giro Bank in Bootle, where I come from. They tried to build a big building to handle all the postal orders and cash transactions in the United Kingdom. During the building's construction an apprentice electrician was sacked. The workers on the building thought that he was sacked unfairly. The shop stewards made a presentation to the boss to try to get the apprentice reinstated. They were not successful and so they went on strike. They went on strike in 1970 and went back in 1975. During that time the apprentice had gone to another firm and become a tradesman. He was the first person to walk through the gate to get his job back. If members did not understand what I said, I want them to read of those kinds of stories in the *Hansard*. We do not have a mindless, militant union movement in this State. We have the best industrial relations we have had for over 10 years. We do not have the problems that see democracy kicked out of the window in order to deal with matters that are not that important in the scheme of things. If they are important, then surely they are important enough to be dealt with by a properly constituted upper House for which the people of Western Australia voted on 14 December.

Sometimes I get a bit sick and tired of saying the same thing over and over again but I also get tired of listening to the same tripe over and over again. We would have run out of a bit of steam by now if we did not have the 21 May date to look to when we will see the changes that will take place. We cannot say with any authority that at that time this Bill will be defeated because we do not know. As I have said before, if we look at what happened federally and how the Howard Government Minister negotiated with the Democrats, the Senate made some changes to the industrial relations Bill. Quite frankly we do not at all like the changes, but the Federal Government demonstrated that it could negotiate. We must keep asking ourselves why this Government cannot negotiate with the elected Democrats who are about to take their place in this Chamber. It seems a very strange state of affairs, although, as one of my comrades said, it probably is not. All members on this side of the House are trying to put logic into this debate. Provoke those opposite as we might, call them cowards as we might, say that they smell from the fear as we might, we will not get one of them on his feet to defend this indefensible piece of legislation. We cannot do it because members opposite will not stand up, so it will fall to the Opposition to provide some logic. The only conclusion one can form for why we are faced with this legislation is that either Minister Kierath is using the power of the coalition to get back at the union movement for its legitimate activities when he was a master cleaner or - I am sorry that Hon Peter Foss is not here to hear this, but he is still out of the Chamber on parliamentary business -

Hon Graham Edwards: What makes you think he is on parliamentary business? He has been absent for most of the debate; he does not have the guts to stay in here.

Hon TOM HELM: Hon Graham Edwards told me to be reasonable. I am sympathetic to that response; however, I am being reasonable, so I will not say it. We have searched for the logic in what is happening and the reason that we are here. We could be here until 5.00 o'clock in the morning. If I had my way we would not go home. I have already told my wife not to expect me. I cannot understand why Mr Kierath is doing this, unless he is trying to get his own back at the union, or Minister Foss is pursuing this ideology that the workers must learn their place: The managers have a right to manage the workers, and the workers' representatives should not have the ability to represent them in a proper way. I oppose the motion.

HON J.A. SCOTT (South Metropolitan) [8.52 pm]: I too oppose this motion moved by Hon Norman Moore.

Hon P.R. Lightfoot: I am surprised.

Hon J.A. SCOTT: The member should not be surprised that I would not support a gagging, guillotining motion. We know what a great figure for free speech Hon Ross Lightfoot is.

Hon P.R. Lightfoot: I was being facetious.

Hon J.A. SCOTT: Hon Norman Moore in his address tried to put forward the hypothesis that he was promoting debate by gagging and guillotining debate - by stopping debate he was creating debate. What a lot of hypocritical nonsense. I have not been in this place for long; however, I realise that custom and conventions come into this place through practices in the past that showed those customs and conventions were needed to create the opportunity for people to put their views in a fair and just way. The guillotine that we had yesterday, and this further motion by the Minister, takes away that fairness and justice in debate.

Hon Norman Moore says that we can put our views as long as we do not say too much, stop when he wants us to, and do not say too many of the wrong words too often. The Minister says he wants a good fair fight with the Opposition, and then he ties our hands behind our back. That is hardly what I call a just debate.

We are debating a gag on debate over a Bill that takes away human rights. The Government is in the position of having to employ unfair and unjust methods to introduce unfair and unjust rules. Hon Norman Moore says that it is fair that the current members of this place debate this Bill. However, he does not want the new members who were elected at the recent election to come into this place and have a say. Like Hon Graham Kierath, the Leader of the House does not want to accept the judgment of the people who elected those new members. He will do anything to prevent that fair and just position from occurring. The Leader of the House says that this House is the only House which has the right to do anything about Graham Kierath's unjust and unfair Bill.

This motion contains a number of particularly annoying parts. Paragraph (3) states -

Except on motion by a Minister, no question in relation to the Bill for an instruction to a Committee of the Whole House, or to discharge an order of the day, may be put.

If that is not the will of the Executive overriding the ability of this House to operate as a House of Review I do not know what is. Only a Minister has rights in this House. None of us has the same rights as Hon Norman Moore, Hon Peter Foss, Hon Max Evans and Hon Eric Charlton, who have exemplary rights. Some are more equal than others, as the Orwellian theory goes. If we wish to represent our communities, the people who voted for us and those people who did not, we must do that in an unequal way compared with Hon Norman Moore, Hon Peter Foss, Hon Max Evans and Hon Eric Charlton, who get extraordinary treatment. That is not democracy or justice and it is not fair to the electors whom we represent.

Members in this place are accused of dragging out this debate. As has already been pointed out, the method by which the debate has been dragged out has been the motions of the Leader of the House. Had those gags and guillotine not come on, debate on the Labour Relations Legislation Amendment Bill would probably be taking place right now. Sure, some members would take a long time to debate that Bill; that is their right. They have every right to try to ensure that the Government honours the judgment of the people at the last election when the Government lost its majority in this place. Currently that is not happening.

This debate is not over some trivial piece of legislation - that would be a shabby exercise. We are looking at a crucial issue which affects many people's lives. It is a matter that encompasses a great many issues. The Labour Relations Legislation Amendment Bill is not simply a labour relations Bill with which we are trying to deal - or not deal, as Hon Norman Moore would have it. It is more than that: It is a Bill that will go much further than affect labour relations. In doing that it will help the parties opposite maintain their control in this State. Members have been given sham legislation that they are not allowed to debate. The Bill is not what it purports to be. It is unfair legislation. We are being forced in an unfair way by the Leader of the House, with the acquiescence of the government back bench, to try to defend the community's rights. The lack of intestinal fortitude of those opposite is evident. Speakers have pointed out many times that Hon Ross Lightfoot has carefully stayed here to ensure this legislation is passed. His argument is that it has nothing to do with him; that he is impotent. There are a few other impotent members on the opposite side. They could do with some resolve to stiffen them up, so to speak.

There has been blatant interference in our dealing with this Bill by the other place. As I explained the other night, I am upset not only at not being able to debate this Bill in a full and proper way, but that while I am not able to debate it, the Minister for Labour Relations is able to force into this House amendments that are put forward in the name of the Attorney General. They are amendments the Minister arrived at by himself somewhere else, not in this Parliament. An article in *The West Australian* on Tuesday, 6 May indicates they were arrived at in discussion with

the Premier in a hurried atmosphere to try to do something about the terrible mistakes they had made. They have tried to retrieve the situation by deceiving people that they were going to make real changes.

Changes are supposed to be made in this place, not out there between the Minister for Labour Relations and the Premier. However, we cannot make changes in this House when we are not allowed to; when the heavy hand of the Executive has everyone opposite quiet, even though they may disagree with the legislation. They are certainly not speaking out saying they agree with it. Members cannot make proper and fair decisions in this place when the Executive control is so complete that members opposite are quivering in their boots. They are afraid, first, to back up the legislation; and, second, to even speak out over this undemocratic guillotining of debate. What sorts of democrats sit on the back benches opposite? None. They are quietly acquiescing in the stifling of a proper and just debate on this issue.

This issue seriously affects the electorates of members opposite. They should be speaking out for them, not sitting there doing what they are told. Ever since I came into this place I have heard that the Liberal and National Parties allow their people to cross the floor. However, the only time I have heard of it happening is when a deal was to be done and there was something in it for them. That has not occurred since I have been here.

Hon E.J. Charlton: When are you going to do it?

Hon J.A. SCOTT: Unlike the Minister for Transport, I have voted on both sides in this place.

Hon N.F. Moore: You're very flexible.

Hon J.A. SCOTT: When the Government introduces just and fair legislation, I will vote for it. However, when it uses gags and guillotines to get its way, and when it ties people's hands behind their back and hits them, I will not budge, and I will oppose it all the way.

Hon E.J. Charlton interjected.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! The Minister will refrain from interjecting and Hon Jim Scott will address the Chair.

Hon J.A. SCOTT: I realise that must be an embarrassing situation for members opposite, particularly for those who represent electorates with many working people and people who will be unjustly affected by the legislation members are allowed to debate in only a limited way, up to the point the Executive wishes. Government members must be more than embarrassed. They must find a bit of courage. I ask members opposite to think about this. What they are doing here tonight and what they did last night will not put them in a good light with people. I refer not just to those who are in unions, the people in the Public Gallery tonight, or the people in the workers' embassy across the road, who oppose the Bill that this place is yet to debate. It is not just those who will ask whether they can trust the Government. All fair minded people who voted for the Government last time will say that if the Government uses methods like this to get its way rather than being open to proper scrutiny and trying to achieve the best for all people in this State, they will not want a bar of it at the next election.

The other facet is that this place is about to have a change of personnel. For this House to operate in a functional and effective way it will need cooperation and a spirit of goodwill when that change occurs. It will require people on this side of the House to be able to trust people on that side, and vice versa. This motion is not a good start; it is not the way to achieve that. It will not leave me, for one, feeling happy about the way the Government is operating. It will not earn brownie points from me; in fact, the opposite has already occurred.

I want government backbenchers to say why they support a gag on debate and why they will not allow this legislation to be debated until the new House comes into being. What are they so afraid of? The reality is that members opposite are worried about their seats and their preselection. I hope those members who are sitting back and allowing this unjust gag to proceed, in order to assist the ramming through of this unjust legislation, will struggle at the next election. It is an undemocratic action. It is not fair. It is tyranny.

Hon E.J. Charlton: Yeah, yeah!

Hon J.A. Cowdell: The tyrant owns up.

Hon J.A. SCOTT: I do not think Hon Eric Charlton is too worried. I get the feeling it was a facetious "yeah, yeah", simply because he has been so used to using the numbers in this place with all the sheep following the leader. It is no accident that he sounded like an old ram keeping the flock in check.

The Government is not giving this House a fair go. Furthermore, the motion does not prevent members debating the Bill, but merely from sending it to a standing committee. Only the Minister can do that. Everyone in this place knows the legislation is deficient in a significant way. All members opposite know that the proper way for that

deficiency to be corrected - especially with legislation as bad as this is - is for the Bill to be sent to a standing committee where it can be properly and quietly adjusted. That should not be attempted with a hothouse reactionary attitude, where Mr Kierath and the Premier have looked at their ratings and have whacked out some amendments to placate the people and to win the media battle. They should consult with the people who will be affected by the legislation.

Before the legislation came to this place the Trades and Labor Council asked to speak to me about it. The TLC asked whether I had been briefed on the Bill, which will be gagged by this motion and the motion passed yesterday, because its members were unable to obtain a briefing.

Hon E.J. Charlton: Is that right?

Hon J.A. SCOTT: Yes it is. While they had an idea about what was likely to be contained in the Bill -

Hon J.A. Cowdell: The Liberals probably have not shown it to the National Party either.

Hon J.A. SCOTT: The National Party is probably not a major player in this matter because the Government in the other place does not need it any more. The National Party is rapidly becoming a dispensable part of the Government and will become even more so at the next election if it continues down this path.

Hon N.D. Griffiths: They will not be part of the Government at the next election, and the Liberals will not be in government either.

Hon J.A. SCOTT: They probably will not be part of the coalition either.

Hon N.D. Griffiths: There will not be a coalition Government.

Hon J.A. SCOTT: I am diverging from where I should be going.

Hon N.D. Griffiths: Not at all. We do not want a Liberal Government.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! Hon Jim Scott has made a pertinent observation. He is diverging from the main issue we are discussing. I suggest he get back to the motion.

Hon J.A. SCOTT: The motion will prevent this House from sending the legislation to a place where it could be fixed after consultation. That consultation did not occur prior to the legislation coming to this place. After the TLC asked whether I had seen the legislation, I asked to be briefed on it. For some reason or another that never happened. The idea was to spring it on people in this place. It was certainly sprung on the community. The Government's argument that the legislation must go through this place before 22 May because it has a mandate and, therefore, the guillotine and gag will be applied, does not stand up. The legislation was withdrawn before the last federal election to avoid electoral losses, and has been kept under wraps until recently. It was supposed to be defunct, and the Premier said there would be no more of that legislation or that industrial relations program. He said it was time for the social dividend. It appears his social dividend is blatant interference with the democratic rights of members of this House.

This House of Review, this Parliament, this peak body in Western Australia has had a motion put before it that is totally and utterly undemocratic. It gives the Minister greater power than anyone else in this House and is in total opposition to the recommendations of the Commission on Government and the WA Inc royal commission. They were both concerned about the power of the Executive over the upper House. They recognised it was the beginning of corruption. The Bill this Government is trying to protect with the gag is close to corruption. It will prevent money going to the Government's major opposition. It will prevent people from expressing their displeasure at the way the Government is conducting itself. It is very close to a corrupt Bill. Using a gag to pass the Bill is symbolic of a corrupt Government. Certainly, it is morally corrupt.

This motion also states that "A provision of this order has effect notwithstanding any rule or order." It is an extreme motion which overrides anything. It does not matter whether a matter of huge urgency comes into this place, the Government will ram the Bill through the House anyway. It will put at risk the Government's ability to handle all manner of legislation. It is silly that it will ensure the very thing government members claim they are trying to prevent; that is, industrial strife. It will ensure industrial action will take place as a result of the use of a gag and guillotine as proposed yesterday and today.

Certainly, the motion will pass on the numbers because no courage will be seen from members opposite. No member opposite will speak out against the stifling of democracy in this place or about the overpowering of this place by the Executive. The gag and guillotine motions will make people so angry that they will double their efforts against the measure. It will double the anger and double the determination to ensure that this legislation is withdrawn. Already, many people say that they are prepared to go to gaol, and I believe those people.

[Interruption from the gallery.]

Hon J.A. SCOTT: This Government will need measures for new gaols because current gaols will be full of people who want to express their democratic rights. These people will be denied that right. We will become, as Minister Kierath would like to see, a new Indonesia and China where people's rights are suppressed and people are not allowed to speak out. To make it worse, we are symbolising that denial of rights in this place which is supposed to espouse democratic principles. This House will prevent democratic debate. I oppose this gag motion. It is offensive and should be withdrawn immediately by the Leader of the House as it does him no credit; it will hang over his head for the rest of his days in this place.

[Interruption from the gallery.]

HON J.A. COWDELL (South West) [9.24 pm]: I oppose the motion. I do not often agree with the editorial of *The West Australian*, but no-one could have put the matter more succinctly than in the editorial this morning. It is headed "A Cynical and autocratic decision", and it is worthwhile for government members to consider its words again as an excellent summary of the current situation -

The Court Government is tossing parliamentary convention on the scrapheap and wrecking its credibility as a fair-minded government by ruthlessly ramming its industrial relations legislation through the Upper House.

The Government gave notice last night that it would use the guillotine and gag to ensure its contentious Bill passed through the State Parliament next Thursday. This is a week before the conservatives lose control of the Legislative Council for the first time in more than 100 years of representative government in this State.

It is a breathtaking display of arrogance and contempt for the people's vote in December and for the proper role of the Council as a House of review. It completely ignores recommendations of august bodies, such as the WA royal commission and the Commission on Government, which urged that the review role of the Upper House should be strengthened to help prevent the executive riding roughshod over the Parliament and the people.

The Government's contempt for what is proper procedure is further illustrated by its decision to keep Senator-elect Ross Lightfoot in the Legislative Council long after convention says he should have resigned and gone to the Senate. The only reason is that it needs his vote to beat the May 22 deadline.

The Court Government - elected by voters who wanted to restore integrity and quality to the State's political and financial systems - is the only government in the history of the Upper House to use the guillotine.

We have before us sessional order No 3. The guillotine, part three, was introduced thanks to Citizens Danton Charlton and Robespierre Moore, and the rest of the Committee of Public Safety. The motion before us allows one or more stages of this Bill to be completed at the same sitting, and states that only a Minister may initiate an instruction to a Committee of the Whole or initiate the discharge of this Bill. Of course, the Commission on Government argues that Ministers should not be in this Chamber at all, let alone contemplating the complete domination of this Chamber by Ministers we are witnessing.

The first part of the third sessional order before us says that one or more stages may be completed at the one sitting. Therefore, the iron regimen laid down in yesterday's guillotine motion can be made even worse. Members will recall that yesterday the Government forced through a motion that the second reading finish at 2400 hours tomorrow; the committee report by 2400 hours on Tuesday; the adoption of the report by 2200 hours on Wednesday; and the third reading by 1700 hours on Thursday afternoon, 15 May. Therefore, the first part of this motion allows a concertina of that very restrictive process. The Government, if it wished, on the motion of a Minister, could have on the same day the Committee report and the third reading. If yesterday's motion were not bad enough, so Senator-elect Lightfoot would not be late for his appointment in Canberra, this motion makes it worse.

The second part of the motion states that only a Minister can initiate an instruction to the Committee of the Whole, the device which allows the House to work out a compromise. By virtue of yesterday's motion, we are not permitted to send this legislation to an expert committee for its consideration and to hold public hearings to come up with a compromise. If passed, this motion will prevent us from coming up with a compromise. This device would normally allow the committee the power to do things it otherwise could not do. It takes away from the committee the power to divide the Bill. Only a Minister can do this now.

Members will recall that in December 1995 a piece of legislation came before us that was as bad as this Bill - the second wave of the industrial relations legislation. We divided that Bill, took out the worst elements and sent it off to a committee. On that occasion we could divide the Bill, and we did. Then the worst elements came back. The

Government was afraid of the impact of that legislation on the forthcoming election and the Bill was divided again. Only one small part of the second wave of the industrial relations legislation was passed. Very sensibly, this Chamber had the power to divide the Bill to get rid of the worst clauses of it. This can be done now only on the motion of a Minister. We do not have the power to divide the Bill, to excise certain parts of it, to split clauses or to consider certain clauses. All of that has gone. Under this motion, if passed, only a Minister has the power to initiate the discharge of the Bill. It will remove from me and every other member of this Chamber, who is not a Minister, the right to move the discharge of the Bill. Indeed, I intended to move along those lines, but if this motion is passed, I cannot do so.

I will not be able to move that this Bill be discharged because of the economic cost to the State. On Sunday night I turned on the television and saw the Premier in living, breathing colour, saying that this dispute had cost the State \$120m - so far - but that he would continue on his course. Although the cost is \$120m and rising, I will not be able to move to have the Bill discharged to save the economy of the State or because of the social cost of the legislation. We have already seen the cost to workers and to employment; the disruption to the community; and the outrage of whole sections of the community.

Doubtful legality is attached to the Bill; it probably contravenes a number of our international obligations under International Labour Organisation conventions. The Bill may well be ruled out on that basis. We will not have time to consider any of the legal arguments.

Hon B.M. Scott: Start debating it, and we will.

Hon J.A. COWDELL: No, I cannot do that because with the passage of this motion, the Government is removing my ability to move the discharge of the Bill. By passing the motion, those opposite are denying me the right to move for the discharge of this Bill for the valid reasons I am putting forward and also based on its doubtful legality with respect to commonwealth legislation and federal industrial relations legislation.

We all know the last time this Chamber passed a Bill using the guillotine. It was so shoddy, so bad, that the legislation was shot to pieces and thrown out of the High Court of Australia in a 7:0 ruling. After the passage of this motion I cannot move the discharge of the Bill because of the moral bankruptcy of it, because of the unconscionable act of putting the full power of the State behind the employer, as though the employee is not discriminated against enough under our laws where employees can be sued, do not have the right to go on strike, and can be subject to all sorts of legal sanctions. No, that is not enough for this Minister; he requires more sanctions. Members will be aware that the Minister called from his department for a list of 15 sanctions under the Criminal Code that could be used to put workers and unionists in gaol. That is also not enough. We now have this legislation that gives another five or six grounds on which workers can be put in gaol. The Criminal Code is not enough!

I oppose the motion. As I said, it will remove my right or ability and that of any other non-ministerial member of this Chamber to move the discharge of the legislation. I oppose it because it is the third in the trilogy of time management, or guillotine, motions. They are all motions to override the privileges and accepted standards of the House and to subjugate the House to the will of the Minister for Labour Relations and the Government. We are all aware that on 30 April the Leader of the House brought to this place the first sessional order. That little number overrides the set finishing times of the House so that we can sit all night and not scrutinise legislation adequately. We sat until 3.30 am last night and the level of scrutiny, I hazard a guess, between 10.00 pm and 3.30 am would not be as effective as scrutiny at any other time.

Hon N.F. Moore: We didn't debate the Bill.

Hon J.A. COWDELL: No, but the Leader of the House introduced the capacity, and we will be sitting late tonight to debate other matters. I opposed the motion covering sessional order No 1. Then we debated sessional order No 2, which was pushed through this House at 3.30 this morning to override any other order of the House, to impose an iron timetable of the most restrictive nature on the consideration of the Labour Relations Legislation Amendment Bill. This motion that was passed at 3.30 am gave us five or six hours, in total, for consideration of 70 pages of the Bill, covering 40 clauses, in the Committee of the Whole House. In addition to the 40 clauses, yesterday we were given the Supplementary Notice Paper which runs to nine pages of additional amendments. All this is to be chopped into one period of six or seven hours. We are talking not only about the Bill, which runs to 70 pages and 40 detailed clauses, but also the nine pages of detailed amendments that were presented to us for the first time yesterday.

Hon J.A. Scott: That is the new Kierath-Court Bill.

Hon J.A. COWDELL: Sessional order No 2, passed this morning deemed that all relevant ministerial amendments - that is, the nine pages of amendments - are to be taken as passed without necessarily being debated when the clause is put and passed. So we might not consider any of these clauses.

Hon J.A. Scott: Which have not been through any House of Parliament.

Hon J.A. COWDELL: Yes. However, under time management, if members' allotted 15 or 20 minutes expires and the Minister has not provided an explanation and the issues have not been debated, the clause is passed automatically. I opposed this motion at 3.30 am.

I now oppose the third in this trilogy of guillotine motions - the motion to allow the precedence of this Bill over any other order of the day, to allow one or more stages of the Bill to be completed at the same sitting, and to allow only the Minister to discharge the Bill or initiate the process to discharge the Bill, to instruct the Committee of the Whole in respect of dividing the Bill or not to consider particular clauses. These are rules to enable the Bill to pass through this House without proper scrutiny or, in the case of some clauses, without any scrutiny at all.

I referred to that abortion of a Bill - the Land (Titles and Traditional Usage) Bill - that was passed the last time such enabling orders or guillotines were used to force a Bill through this Chamber without adequate scrutiny. That legislation was unanimously thrown out by the High Court after millions of dollars of state taxpayers' funds were spent in a futile exercise.

For those reasons I oppose this motion. I have opposed the other two motions in the trilogy of this guillotine exercise. This motion, like the others, is a betrayal of our duty of scrutiny. It is also a betrayal of the injunctions of the Royal Commission into Commercial Activities of Government and Other Matters and the Commission on Government. I will not quote the sections, but if members refer to Report No 2 from the Commission on Government, which quotes the WA royal commission, they will see the course that should be followed; that is, that this Bill go to a standing or select committee of this Chamber and not be rammed through without proper consideration by a Committee of the Whole.

I oppose the motion because it is a betrayal of the proper role of an upper House as a House of Review. Why should I be surprised that this is the last act of the old order which blocked votes for women and the right of women to serve on juries, which upheld the property franchise and which refused to give people a say in local government elections? How appropriate it is that the last act of the old order in this Chamber is to guillotine and ram through a piece of legislation that denies workers their rights in Western Australia and tips the scales completely in favour of the employer against the employee.

It is for those reasons that I oppose this guillotine motion. We all know the famous adage: Power corrupts, and absolute power corrupts absolutely. There is no better witness to that statement in respect of Kierath and Court than this motion.

HON KIM CHANCE (Agricultural) [9.46 pm]: This motion is a disgrace in its intent and its outcome, and it is a disgrace that we are considering it here in what we like to call a democratic Parliament. The Bill has three principal effects: First, it gives precedence to the Labour Relations Legislation Amendment Bill over any other matter on the Notice Paper. It does not matter how important other issues might be to other members, this Bill will have precedence as a result of this motion. Secondly, it prevents the House putting a question on an instruction to the Committee of the Whole when it is considering the clauses. It prevents any discussion on any instruction such as to send one clause to a committee for advice. The committees were established to resolve those issues, but this motion prevents the House from doing that. It also prevents the House moving to discharge the Bill to allow it to be treated in another way. Thirdly, this motion provides that this order will override any rule or order that applies in this place. Regardless of how long the precedent has been established, any rule or order of this place is overridden as a result of this motion unless a Minister decides to say that it is appropriate that that order cannot be overridden. That single statement sets aside centuries of parliamentary practice.

We all understand the effects of a guillotine, and we dealt with that yesterday because most of us think of it as a time management motion. This is not a guillotine motion. If anything, it is more brutal than a guillotine. It is certainly more arrogant in its effect and it is far less democratic than a guillotine could ever be. It is bad enough that it allows one Bill to have such precedence over any other matter on the Notice Paper. I do not like that, but I could probably live with it. However, the worse aspect is that it sets out to limit the options available to the Parliament to deal with this legislation. It has been often enough conceded that this is controversial legislation. In that single act, in those two short, brutal lines of part (3) of this motion, the Government has blithely dispensed with the parliamentary practices that have been established over the centuries.

Whatever the immediate imperatives, whatever pressures are on the Government to pass this legislation and whatever excuse it might use to justify this action, nothing can justify placing conditions on democracy. That is exactly what this motion is doing. It is a sad commentary on the quality of this legislation that it requires a motion of this nature to get it through a democratically elected House.

What do we think democracy and freedom are worth? I will give one measure of democracy and freedom. In the outer office of the Leader of the Opposition, Hon Tom Stephens, pinned up on the wall just above the photocopier, is a copy of a piece of legislation entitled the Industrial Conciliation Act No 28, which was passed in Pretoria in the Republic of South Africa in 1956. Those of us with a sense of history will understand some of the other legislation that was passed through that country's august Parliament in 1956. I have looked at a number of sections of that Act, and I now understand what the Court Government used as a template for the Labour Relations Legislation Amendment Bill. Some sections of that Act deal almost word for word - I am not exaggerating - with political participation by unions, with political donations by unions, with the rights of association between unions and political parties, and with the definition of a strike.

One could almost pick up the words from that 1956 legislation from Pretoria and insert them into the labour relations Bill and not notice the difference. Other members mentioned the other day that we have celebrated, if that is the right word, the anniversary of the enabling Acts of 1933 which were passed in the Reichstag and which had the effect of destroying the union movement in Germany. I have read that legislation, and one can draw some similarities. However, in the case of the Industrial Conciliation Act No 28 of 1956, Republic of South Africa, one can insert whole sections and not notice the difference.

I believe that democracy and freedom are worth almost as much as life itself. When we take legislation that even the Republic of South Africa repealed or amended substantially in the early 1980s - I hasten to add that those laws have not existed in the Republic of South Africa for more than a decade - and when we consider all the stresses and strains that South Africa was suffering at that time, and compare that legislation with the legislation that we are considering enacting in Western Australia in 1997, I can use no other words in the parliamentary sense than to say it is a disgrace.

[Interruption from the gallery.]

Hon KIM CHANCE: It is almost 10 o'clock, and the Leader of the Opposition will wind up the Opposition's comments on this motion and then begin his comments on the second reading stage of the labour relations Bill. This is the last opportunity that I will have for some time to contribute to the debate. It is also the last opportunity, or one of the last opportunities, that government members will have to consider what they are doing. Why do they need such draconian conditions in a motion of this kind in order to put through this legislation? What is the nature and what is the quality of the kind of legislation that they are trying to put through if they need to use devices such as this to do it?

[Interruption from the gallery.]

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.54 pm]: The Opposition has concluded its case as to why this motion should not be carried. We know from the looks on the faces of members opposite and from the display that has been given to us that the Government is intent on carrying through this guillotine motion, this gagging of the House, and that in a few moments this place will move inevitably closer towards the passage of the labour relations legislation. When this motion is carried at around 10 o'clock, we will be left with the task of debating that legislation. We will endeavour to do our best to present the case as to why this House should not proceed with that Bill. However, we fear that that will fall absolutely on deaf ears, as have the arguments put by my colleagues, which were incredibly compelling arguments for anyone with a heart, for anyone with a brain, and for anyone with compassion.

[Interruption from the gallery.]

Hon TOM STEPHENS: We will do our darnedest to hope against hope that some compassion will emerge in the heart of this Government and that some realisation of the damage that will be done to this State will somehow dawn upon it. If nothing else, the Government can be guaranteed that eventually the people of Western Australia en masse will wake up to it. In those circumstances, we will press on to debate this legislation. We will debate it thoroughly and exhaustively, if necessary, because the only conclusion that can be drawn from that debate is that the Government should withdraw the legislation. We will put that case.

[Interruption from the gallery.]

Hon TOM STEPHENS: The Opposition is opposed to the gagging and guillotine processes that have been unleashed upon this House. We hope that even now, Hon Norman Moore will have enough sense to withdraw this motion. We oppose implacably what he is doing.

[Interruption from the gallery.]

The PRESIDENT: Order! If the people in the gallery want to stamp their feet, will they take their shoes off.

[Interruption from the gallery.]

Question put and a division taken with the following result -

Ayes (17)

Hon A.M. Carstairs
Hon George Cash
Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans

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

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

Noes (15)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon E.R.J. Dermer
Hon Graham Edwards

Hon Val Ferguson
Hon N.D. Griffiths
Hon John Halden
Hon Tom Helm
Hon Mark Nevill

Hon J.A. Scott
Hon Tom Stephens
Hon P. Sulc
Hon Doug Wenn
Hon Bob Thomas (*Teller*)

Question thus passed.

Second Reading

Resumed from 1 May.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [10.03 pm]: The Opposition opposes this Bill in principle and in detail. The reasons for our opposition will become apparent as I make my contribution to this debate. We will go through an orderly process of examining the legislation, line by line, clause by clause, and page by page, during what apparently will be a truncated Committee debate next week. In the meantime I will deal with the reasons that this Bill should not be given a second reading. I will rely in part upon the comments made in regard to this Bill by the Attorney General.

When I began my comments during an earlier debate, the Attorney interjected in his typically smart way - we have become accustomed to that - and said that immediately following this legislation he would implement two additional Bills on industrial relations. He also said quite blandly that those Bills would implement the Fielding report. As we all know, the Fielding report contains about 236 recommendations, and my question is which of the 236 recommendations will be implemented in the Bills foreshadowed in the Attorney's second reading speech? Will the additional Bills contain the repeal Bill for the provisions which are currently before us?

Hon N.D. Griffiths: I hope so, to be consistent.

Hon TOM STEPHENS: We all know that the Fielding report made specific observations about the type of legislation that is currently before us. One observation was that this legislation is not an appropriate response. However, in his smart, smug way the Attorney General said during earlier debate that the Fielding report will be contained in that foreshadowed legislation. Can the Attorney tell us what colour is the cover of the Fielding report?

Hon Peter Foss: The one on my desk is white.

Hon N.D. Griffiths: And it is untouched by you!

Hon TOM STEPHENS: Would any other member like to tell me the colour of the cover of the Fielding report? Mr Scott? Mr Montgomery? Mr Cash?

Hon Peter Foss: It is an important point!

Hon TOM STEPHENS: Not one member opposite has read that report. They do not know what is in it. If they had read it, they would be aware of its colour.

Hon Peter Foss: That is very important!

Hon TOM STEPHENS: I do not believe that members opposite have read that report, and that includes the Attorney General. Had the Attorney General read the report he would know that if he intends to implement that report - and he said glibly that he would - the report requires him to introduce a repeal Bill for the legislation currently under debate.

Hon Peter Foss: I am not the Minister for Labour Relations.

Hon TOM STEPHENS: The Attorney is the driving force behind this legislation.

Hon N.D. Griffiths: He is the puppeteer, and he is responsible to this House.

Hon Peter Foss: We are talking about this issue.

Hon TOM STEPHENS: We are dealing with the Attorney's second reading speech.

Hon Peter Foss: We are dealing with the Bill.

Hon TOM STEPHENS: This is our response to the Attorney's second reading speech. In that speech he said that he will introduce -

Point of Order

Hon PETER FOSS: Mr President, I think that from the beginning the Leader of the Opposition should direct his remarks to the Bill.

Several members interjected.

The PRESIDENT: Order! Members should listen to me. It is bad enough that they interject on others, but they should not interject on me. There is no point of order. The member should direct his comments to me, and not to others.

Debate Resumed

Hon TOM STEPHENS: Mr President, I had only just begun my contribution when I drew an interjection from the Attorney General. It did not occur to me at the time, but it has since, that his glib and smug interjection in response to my remarks about the contents of the two Bills referred to in the second reading speech, was meant to fit his argument in support of the second reading. Reference is made in that speech to two Bills which will follow this legislation. The Attorney said quite glibly that the legislation would implement the Fielding report, ignoring the fact that the Fielding report does not call for any such provisions; it specifically opposes the implementation of such provisions. We still wait with interest, if someone on the government benches would like to give an intelligent response about the contents of the two Bills referred to in the Attorney's second reading speech.

Hon Peter Foss: The Fielding report!

The PRESIDENT: Order! I ask the Minister to stop his interjections, for goodness sake.

Hon TOM STEPHENS: When referring to the Industrial Relations Legislation Amendment and Repeal Bill the Fielding report calls for provisions such as that not to be implemented. That is another reason the Attorney General should withdraw the Bill. Regrettably, the Attorney chooses to deny us the detail on what is specifically intended. Which elements of the 236 -

Point of Order

Hon PETER FOSS: I am not allowed to respond when he directs his remarks to me. I will be quiet but I will not have him calling on me to respond.

The PRESIDENT: Well, do not respond.

Debate Resumed

Hon Graham Edwards: Exactly.

Hon TOM STEPHENS: It is not by way of interjection that I was looking for a response. The Attorney knows that I sought answers during question time to specific issues he raised in his second reading speech. The answers were also glibly given.

In his second reading speech the Attorney suggests that the purpose of this Bill is to reintroduce those labour relations legislative reforms first tabled in September 1995 and not passed in the previous term of the coalition Government. I will prove what a false claim that is.

I ask the Attorney to indicate in his response in this debate whether he still contends that this Bill reintroduces all those provisions previously tabled in September 1995. If not, which provisions have been left out and why? What new ones have been put in and why? After answering those questions, will he then agree that the suggestion in his second reading speech that the purpose of the Labour Relations Legislation Amendment Bill is to reintroduce those labour relations legislative reforms of September 1995 is not an accurate claim?

I am interested to know why some specific issues have been left out and some additional provisions introduced. On what basis has the Government singled out provisions from the 1995 legislation for inclusion in this legislation and

ignored other aspects of the same legislation, introduced new aspects and singled out those from the subsequent legislative program glibly described as the implementation of the Fielding report by way of legislation?

The Attorney said that the Labour Relations Legislation Amendment Bill also incorporated changes to the Western Australian industrial relations system; to use the Attorney's words, "to take account of changes under the federal Workplace Relations Act of 1996". I will demonstrate again what a false claim that is. Regrettably, the Attorney did not say what specific changes within the Labour Relations Legislation Amendment Bill take into account those federal changes. Nor did he indicate what changes at federal level have not been reflected in this legislation. What more changes does the Government envisage for the Western Australian industrial relations scene that flow from the changes at federal level?

The Attorney suggests the Government's reform has been paid the quite remarkable compliment of being the model emulated by the Commonwealth Government for Australian workplace agreements in its recent federal Workplace Relations Act of 1996. Again, a specious and false claim; yet it is contained in the second reading speech as the reason we should give this Bill a second reading. Again, regrettably the Attorney has not indicated in precise detail how the federal legislation has emulated this state legislation. I would like the Attorney to indicate specifically how this state legislation has been emulated and why it is now necessary to amend it to take into account the federal provisions.

In reference to the compulsory pre-strike ballots the Attorney suggested that when the Industrial Relations Legislation Amendment and Repeal Bill was introduced in 1995 the principles that underpinned that legislation were set out by the Minister for Labour Relations. He went on to say that one of the driving imperatives was the desire to see unions become more accountable to their members. That is a false claim if ever we have heard one and just as false a claim in reference to this legislation. I will develop that theme and show later exactly how wrong is that claim. With reference to unions and their members the Attorney continues with these words -

... who would then play a more participative role in the organisations.

I will point out again what a false claim that is by any reading of the Labour Relations Legislation Amendment Bill, which will be before the House on the passing of this motion. The Attorney says that that principle remains and the pre-strike ballot provisions in this Bill are the most manifest demonstration of it. The Attorney said that the Government would not resile from its absolute commitment to the important principle that union members should have the opportunity to show by secret ballot their attitude to any contemplated strike action. Regrettably the Labour Relations Legislation Amendment Bill does not do any such thing. It is not what the Attorney purports it to be. As the Government well knows it does not provide that opportunity for union members to do any such thing, despite the Government's claims about the legislation.

When I began my comments I said, "We are opposed to this Bill in principle and in detail." The Attorney suggested by way of feigned surprise at that comment that a principle existed within the Bill with which I agreed and surely the Opposition was on record as agreeing to some of the principles of the Bill. I reject any such suggestion because while claims are made about the principles of this Bill, they are not contained within the legislation. It is true that the Labor Party and the Trades and Labor Council are now supportive of pre-strike ballots. However, that is not a principle of the Bill. It is a principle that the Attorney claims is enshrined in the legislation. However, on examination of the legislation it is obvious that no such thing is achieved by the provisions of the Bill.

Hon E.R.J. Dermer: Quite the opposite.

Hon TOM STEPHENS: It makes it impossible for strikes to occur. At the least they will be illegal and it will be very difficult for union members to participate in the decisions that might lead to withdrawal of labour.

Hon E.R.J. Dermer: Extreme penalties.

Hon TOM STEPHENS: It provides for extreme penalties aimed at ensuring that the principle about which the Government speaks is not contained in this Bill. All the more reason that the Government, if it had any principles, should stop using this cant and acknowledge that it does not have a Bill that goes anywhere near delivering to the community of Western Australia something along those lines. The Attorney said that given the cost of strike action to employers, the community and union members, it was essential that any such action should not arise unless there was clear evidence of grassroots support for it. He expressed the view that such a requirement should be welcomed by the union hierarchies, because he said in words that he would once get away with, but not now because the mood of the Western Australian community has changed -

... hot-headed elements within their ranks and provide an opportunity for calmer and wiser minds to work through the best strategies to resolve any dispute.

The Opposition knows that what is required in Western Australia is calmer and wiser minds in the cabinet room. Regrettably, calmness is not one of the Attorney General's attributes and neither is it one of the Minister for Labour Relations' attributes. Regrettably, the lack of calmness within Cabinet is evident by the lack of enthusiasm by Minister Barnett. He seems to be out on a limb. Unfortunately, the National Party has been the first party to cave in over this legislation. I blame the National Party for the fate confronting this State.

The Minister said in his second reading speech -

The concept of a compulsory pre-strike ballot is opposed by some trade union leaders.

It is evident that the claim which the Minister got away with early in the debate has been the result of a mass movement across the State against this specific provision of the legislation.

Hon E.R.J. Dermer: The rank and file.

Hon TOM STEPHENS: Absolutely. A broad cross-section of the Western Australian community is concerned about this legislation. The Opposition is prepared to look at the concept of pre-strike ballots. The Minister went on in his second reading speech to use inflammatory language. He then used measured language which is aimed at convincing this House to agree to the second reading of this Bill. He said about union leaders -

They see it as a threat to their privileged position of influence, -

The Minister's Bill will certainly do something about the position of union leaders if it is enacted. What sort of privilege is it for union leaders to have to face gaol and severe penalties? The members of the unions will also be confronted with this proposition as a consequence of various clauses in the Bill. In reference to the union leaders, the Minister said they use their influence -

... capriciously by arguing they should have an unchallenged right to orchestrate strikes and industrial action at a time and in a manner of their choosing.

The Minister seriously put these arguments to the House in support of the Bill being given a second reading.

[Quorum formed.]

Hon TOM STEPHENS: The Minister went on to say about the union leaders -

They have no or little concern for the economic damage they inflict on employers, workers and union members. They ignore the threat industrial action poses to current and future jobs.

What a specious claim to make in reference to the union movement and its members - the workforce of Western Australia. This Government is prepared to press on with legislation knowing full well the damage that the Government is causing this State. It is inflicting economic pain on employers and union members across the State and it is ignoring the threat the industrial action poses to current and future job prospects. The Opposition knows that the Minister's claims about the union movement should really apply to this Government. The Minister tried to contrast the attitude of trade union leaders to the strong support he alleges the community has for his Government's version of a compulsory pre-strike ballot. I will take some time to provide, for the information of the House, evidence to indicate that the Minister's specious claim suggests that the Government has strong community support for its version of a compulsory pre-strike ballot.

Hon E.R.J. Dermer: The Minister's comments are a farce.

Hon TOM STEPHENS: I agree with the comment of my friend, Hon Ed Dermer. The claims in the Minister's second reading speech are a farce. In view of the fact that as justification for this Bill the Minister has alleged community support, I will, in great detail, demonstrate how false that claim is.

The Minister claimed that he had been encouraged to note that the Leader of the Opposition gave his support to the principle of secret ballots during the 1996 election campaign. He then tried to build a case to demonstrate why the legislation is in response to the support for that principle. He failed to note that the in principle support offered by the Leader of the Opposition, Dr Gallop, and the Australian Labor Party for pre-strike ballots does not come anywhere near giving in principle support to the pre-strike ballot as defined in the Bill.

The Minister referred, in his second reading speech, to the connection of Dr Gallop with British politics and the British industrial scene. Members are aware that the Bill was introduced in the other place when the British Labour leader was still the Leader of the Opposition. In the Minister's second reading speech in this place, he referred to the comments of the Right Honourable Tony Blair, the newly-elected British Prime Minister.

At the annual conference of the Union of Shop, Distributive and Allied Workers in April 1995 he said -

We support measures such as pre-strike ballots, as a responsibility to be recognised and exercised by trade unions.

The Minister did not acknowledge the enormous differences between the industrial climate in Britain and Australia. He said he was encouraged by the comments of Tony Blair. Therefore, he believes the Labor Party in Western Australia has an obligation to support this legislation. I will give an analysis of both the British and Australian situation to demonstrate how one cannot arrive at the conclusion that the situation in Britain cannot be used in defence of the legislation. The Government claims that the Bill contains provisions which specifically identify what constitutes a strike and clearly sets out the obligations of the Western Australian Industrial Relations Commission in dealing with such matters.

The Minister expressed the view that those provisions, together with the provisions on pre-strike ballots and the dispute settling procedures which the relevant parties must follow before invoking the commission's powers, collectively demonstrate his Government's determination to protect public interest. Again, I will demonstrate that the Government is adopting a wrong-headed approach which is far from protecting the public interest.

The second reading speech went on to claim -

Experience in the United Kingdom shows that secret ballots reduce strike action. Only two out of three ballots achieve a yes vote.

I will analyse the British context and show the House why these references of the Minister demand analysis and arrival at a different conclusion from that of the Government.

The speech continues -

Of those which achieve a yes vote, only one strike in four takes place. This means, in effect, that of every six strikes balloted, only one proceeds to an actual strike.

Hon E.R.J. Dermer: The Minister will increase the strike action.

Hon TOM STEPHENS: That is exactly right. This Government is hellbent on its course. This legislation will produce worse results, certainly in the short term and most likely in the medium term, and that cannot be good for Western Australians.

The second reading speech went on to claim -

This has contributed to the UK achieving a strike rate of less than one-quarter of that of the European Union average.

The Minister then left that particular theme - I will go back to it in a while - and moved on to federal award coverage. He noted that the Bill reintroduces provisions to rationalise federal and state award coverage. They are classic words. Regrettably, the language of the Minister's speech is in so many ways what is known in common parlance as the bastardisation of the English language. When he uses words such as "rationalise" to describe what has been done to the federal and state award coverage of Western Australian workers it shows his cute use of the English language. I will come to a real analysis of exactly what the Government does in this legislation when I look at the detail of the Bill.

The Minister says that will be done by a new requirement and that unions that choose to go federal must think carefully about the potential loss of state coverage.

The Minister claims that the Federal Government's Workplace Relations Act - again I use the Minister's language in the second reading speech -

. . . ameliorated the quite disgraceful situation whereby the federal commission would arrogantly, and seemingly automatically, override the wishes of employers and employees to regulate their relationship by way of workplace agreements or to remain within the state industrial relations system.

That claim is again false. It continues -

However, in the Government's view, the new provisions require supporting state legislation to bring home to unions the consequences of wanting to have a foot in both camps.

[Quorum formed.]

Hon TOM STEPHENS: The second reading speech continues -

In practical terms, it means that a union seeking a federal award cannot "double-dip". These amendments will allow the cancellation of such a state union's eligibility to represent employees in the state system and will facilitate the substitution of another union . . .

We know that is proposed in this legislation and when I go into the detail of the Bill I will show exactly how that is done and some of the difficulties that arise as a result. The Minister also said in the second reading speech that the Government is of the view that a union which was so substituted would be one with a greater commitment to remaining in the state jurisdiction. We will see about that in a while. He went on to say -

. . . employees and employers who wish to remain in the state system will now be able to do so, despite the union succeeding in having a federal award made.

Members will see some of the difficulties this legislation presents for people in that situation. The Minister further states in the second reading speech -

Consistent with the provision of section 152 of the federal Workplace Relations Act 1996, the provisions of this Bill will enable a state workplace agreement to override an otherwise applicable federal award.

I will subject the legislation before us to a comparison with the provisions of the federal Act and show how those two pieces of legislation interact and what difficulties arise as a result of that interaction. The Minister also said the Government accepts that the federal system has an important role to play. I do not accept that for a moment as representing the view of this Government. Nonetheless, it is the reason the Minister gives for why the legislation should be read a second time.

The speech then goes on to say -

. . . but the coalition has a strong commitment to maintaining the state system at its optimum level of efficiency.

Efficiency has often been the preoccupation of extremely totalitarian governments and, regrettably, this Government is showing itself increasingly hellbent on totalitarian measures aimed at giving it control over the lives of ordinary people, especially the ordinary men and women of Western Australia who choose to participate in the union movement. I will develop that theme in a while.

The Minister also states in the second reading speech -

The bottom line is that employers and employees should have an employment system which is accessible, fair, efficient and modestly priced and one in which state industrial authorities, knowledgeable of the WA work environment, are able to respond quickly and effectively to the needs of participants within it.

That obviously demonstrates that the Minister is unaware of the involvement of some Western Australians in the operation of the federal commission at every level. I will explain how the local presence of the federal commission guarantees that the federal commission is knowledgeable of the Western Australian work environment and is in so many cases readily able to respond quickly, efficiently and effectively to the needs of the participants within our economy. One can easily demolish that argument in support of the legislation currently before the House.

The Minister claims that the Bill makes "refinements" to unfair dismissal in the state jurisdiction to reflect changes in federal legislation in this area which, he says, are designed to provide a fairer and more balanced legislative framework. Regrettably, that is again one of those false claims; again a misuse of the English language. By any standard, when one goes into the provisions of this legislation one sees nothing could be further from the truth. This is not something that achieves or even sets out to provide for Western Australia a fairer and more balanced legislative framework - and I will explain exactly how false those claims are later.

The Minister also says in the second reading speech -

Other provisions enhance previous amendments to political expenditure, officials of organisations, union dues, dispute settlement procedures, right of entry, inspection of time and wages records, and annual leave.

In explaining particular sections of the Bill the Minister tells us that part 1 of the Bill amends the Industrial Relations Act, the Minimum Conditions of Employment Act and the Workplace Agreements Act. He correctly points out that the Bill is titled the Labour Relations Legislation Amendment Bill. That is one of the few accurate claims in his entire speech.

Hon N.D. Griffiths: It is not good relations.

Hon TOM STEPHENS: No, that is right also. He got the title of the Bill right. Regrettably, the title does not accurately describe what the Bill does. It will not achieve good labour relations. It will put in place a regime that will guarantee disaster in the industrial relations scene of Western Australia.

Hon N.D. Griffiths: Perhaps it should be called the bad labour relations Bill 1987.

Hon TOM STEPHENS: We will have the opportunity during Committee to consider some names that will more appropriately describe this Bill.

Hon E.R.J. Dermer: Charles Dickens would be shocked!

Hon TOM STEPHENS: Indeed. We will have an opportunity during Committee to consider more appropriate names for the short title and the long title of the legislation. We may be able to have a competition among my colleagues and the wider community. It is a good chance to do it. Between now and the completion of Committee, I will call on all my colleagues to see who can come up with the best amendment to the short title and the long title of this legislation that describes this disaster. Let us see what title we can come up with which accurately reflects what is contained in the legislation. We will then give the House the opportunity of embracing that title as a truthful presentation of what the Bill represents. The Attorney General gave no adequate explanation for variations in the proclamation provisions. He merely rattled off what they are. I hope that the Minister, in response to my address and the addresses of my colleagues, will explain to the House in some detail in his defence of this legislation why there are variations in the proclamation provisions. When in opposition, the Attorney considered very seriously the proclamation provision. However, this Bill contains three separate provisions for proclamation and variations relating to the way parts of this Bill should be proclaimed. I remember that Hon Peter Foss used to carry on like a pork chop about proclamation provisions in legislation we introduced being different from others such as those currently before the House. I hope the Attorney explains not only what are these provisions but also why they are as they are. The Attorney said -

The provisions in respect of the financial obligations of officials and political expenditure will come into effect 28 days after the legislation receives the royal assent. The provisions relating to pre-strike ballots, federal award coverage, workplace agreements, access to employee records and the commission's resumption of work orders will be proclaimed at a later date. The remainder of the Act will come into operation when it receives the royal assent.

He did not explain any of that. He then went on in defence of this legislation to talk about the duties of officials of organisations. He said -

The Government will extend the legislation relating to the financial obligations of union officials to include employees of unions who are entitled to participate directly in the financial management of a union in a representative or advisory capacity.

He boasted -

A new offence is to be created, under proposed section 78, if a person fails to comply with an order of the Industrial Magistrate's Court to do any specified thing, or to cease any specified activity.

There are new provisions to accommodate such persons. He continued -

A new provision, section 79, will protect a finance official from having civil proceedings commenced against him or her in two different courts, if there have been breaches of the financial obligations.

That claim will be scrutinised. He claimed -

He or she will also be protected from having two penalties imposed if criminal proceedings are instituted. An official found to be in breach of the financial obligation may, however, be disqualified from holding office in the union for up to three years.

When we get into the Bill, members will be given an explanation of how the Attorney General's understanding of the Bill connects with the legislation and will see how those clauses achieve the desired result for the Attorney. He said further -

Any breach of such an order of the Industrial Magistrate's Court is a contempt punishable by the Supreme Court.

That deserves scrutiny also when I get to a thorough consideration of this legislation. As one gets further into the Attorney's second reading speech, one realises that many issues must be considered before one would agree to give the legislation a second reading.

The Attorney has given no indication of whether there has been any commentary on these provisions by professional organisations whose members may be affected by these penalties. There is no indication of how these provisions relate to the codes of conduct and the professional obligations of people such as accountants, lawyers and others who may be caught in the new requirements. It is possible that employees of unions could include accountants, lawyers and other in-house professionals who will be covered by the provisions of this Bill in a way that I fear will be in direct conflict with their codes of conduct and their professional obligations.

The Attorney earlier referred to pre-strike ballots and went on to develop the theme by saying -

... the Government's view that it is appropriate for the community to be assured that union members will participate in a pre-strike ballot before engaging in any strike action.

I will indicate what a pathetic claim that is for the Attorney to make about this Bill. He boasts -

The legislation prohibits the participation by members of unions in any form of strike unless endorsed by a secret ballot of relevant members.

I will show how those provisions are supposed to work. He said further -

A person authorised by the Minister, or a person affected by the strike, may seek an injunction against a person engaged in a breach, or proposing to engage in a breach, of this fundamental requirement.

He said that the Bill defined a pre-strike ballot. I will reveal to the House some of the problems associated with that definition. It is a definition that defies the legitimate use of the English language because it does not refer to ballots relating to strikes or a ballot that precedes a strike - it is a ballot that is required before any form of industrial activity is taken by an employee.

The Attorney gives no indication of how this definition corresponds with the definition of a strike in any other jurisdiction. I will therefore take the opportunity of drawing on the experience of some other jurisdictions. Some of my colleagues have compared this legislation with the provisions that existed in similar legislation in places like South Africa in the mid to late 1950s during the apartheid regime and the Third Reich in Nazi Germany.

Hon E.R.J. Dermer: The use of arbitrary power.

Hon TOM STEPHENS: Indeed. Regrettably, this definition will not be arbitrary in the sense of any opportunity for people to avoid the penalties that come with this legislation if they take industrial activity of any sort. The Attorney says -

The legislation ... provides for the Full Bench of the Western Australian Industrial Relations Commission to declare that a branch of a federal union operates in conjunction with a state union, as though they were the same body, if certain criteria, as set out in the Bill, are established.

I will talk about that and how it works in relation to this legislation. The Attorney says -

This will ensure that unions cannot hide behind the shield of federal registration.

He says that the legislation requires that pre-strike ballots should be conducted as speedily as possible. He says -

The provisions specifically enjoin the WAIRC to deal with an application as expeditiously as possible ...

I will go into the Bill and see exactly whether the Attorney can make that claim or not in reference to this legislation and I will show basically that "as expeditiously as possible" is not a good way of describing the processes that are unleashed by this legislation. That is again another false claim about this Bill. The commission is required "to give a decision - and any direction and reasons relevant to that decision - within five days of the application being made". That is in accordance with the Bill presented in its current form before the House. I am one of those who has not yet turned his mind to the question of whatever amendments are before the House, but I will have the opportunity of doing that at some later point.

Hon E.R.J. Dermer: There will be a brief opportunity.

Hon TOM STEPHENS: Apparently, but I will have the chance by and by to do it. The legislation requires -

The strike action, whether it be a stoppage, ban or any other limitation on the performance of work, must conclude not later than 28 days after the declaration of the results of the ballot.

I want to go into that and talk about the likely effect of that provision of the Bill. The Attorney spells out -

The key principle involving pre-strike ballots is the enshrining -

Note the language -

- of a new, democratic process of decision making by rank and file union members prior to any strike action being taken.

Hon Graham Edwards: It is like the simplistic approach of Pauline Hanson. They are a good pair.

Hon TOM STEPHENS: Regrettably throughout the speech the Attorney has given as his defence of this Bill is a complete misuse of language. The Bill does not achieve the plain words of what is claimed.

Hon N.D. Griffiths: This is the speech of the Minister in this House?

Hon TOM STEPHENS: Indeed. The Attorney then says -

It is not intended that any resultant strike should be afforded any new legal protection under the Statute.

Hon N.D. Griffiths interjected.

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! Hon Tom Stephens is making an ample speech on his own. I have been very tolerant with the assistance given by his colleagues. I ask them to desist. The rest of the House is listening in silence.

Hon TOM STEPHENS: Thank you very much, Mr Deputy President. I have enjoyed their support but I appreciate that sometimes it runs some risks.

The Attorney boasts that "there will be no immunity from civil action for unions which undertake strikes in accordance with the ballot process". As we all know, this is a core issue. The Attorney previously described the British context but forget to mention that that whole context is built upon some of the immunities.

Hon N.D. Griffiths: He has overlooked the details.

Hon TOM STEPHENS: For all those reasons I will have to go into the details of the British industrial context, its history and why it is that the Attorney's boasts for this legislation should really be the reasons that the House should reject the Bill. He notes -

The commission may order a ballot to be held on the application of the union or one of its members, or of a relevant employer or organisation of employers, or on its own motion where the commission has reason to believe that a form of strike is contemplated by members of the organisation.

Note the language, some of which is contained in the Bill. The language is extraordinary when one reads the detail of the Bill and understands the effect of exactly what is expected of the commission as a result of the provisions contained in the Bill, which are referred to in the Attorney's second reading speech. The legislation would enable the Minister to "direct the commissioner to order ballot if he or she is of the opinion that a strike is contemplated by a union or its members and that the safety, health, welfare or economic wellbeing of the community, or a part of it, is at risk" I will repeat that claim. These words are contained in the Bill and also in the second reading speech -

... is contemplated by a union or its members and that the safety, health, welfare or economic wellbeing of the community, or a part of it, is at risk.

This is the sort of claim about which my colleague, Hon Tom Helm, would ask, "What about the workers?" That is exactly the question that should be asked at this point in relation to the claim made by the Attorney.

Hon E.R.J. Dermer interjected.

Hon TOM STEPHENS: What indeed about the workers?

Hon N.D. Griffiths: He has no concern for the workers.

Hon TOM STEPHENS: No concern.

The DEPUTY PRESIDENT: Order!

Hon TOM STEPHENS: The Attorney goes on to say -

Should the union apply for the ballot, and that application has been endorsed by a resolution of the committee of management of the union, the commission must order a ballot. In other circumstances, the commission shall, after having heard from interested parties, and being satisfied that it is justified by the circumstances, order a ballot.

The view of the Attorney reads -

This will enable the commission to deal appropriately with any frivolous or vexatious applications.

We will go into exactly the effect of those provisions on the context in which they will apply if this legislation is enacted. According to the Attorney -

The processes and procedures for the implementation of the ballot will be matters for the commission to determine.

He goes on to say -

The commission can direct that the ballot be conducted by either the registrar, or a nominee of the commission or, under arrangements with the Electoral Commission, a person nominated by the Electoral Commissioner, or the union.

It is interesting to note that in the wider debate that has gone on in the community the Minister for Labour Relations amplified what he had in mind with these provisions and how they might be put into effect. I want to refer to those as I go down the track with this debate. It opens up a whole new can of worms, which by itself is adequate justification for rejecting the provisions in the Bill. He continues -

In the case of a union, the commission will appoint a member of the commission as a scrutineer. The scrutineer will be required to certify, within 48 hours of the completion of voting, whether or not the pre-strike ballot has been conducted according to the requirements of this part. Failure to comply with a direction of the person conducting the ballot will be dealt with by the Full Bench.

He goes on to say -

Where a union has been ordered to conduct the ballot, it will do so in accordance with its rules, the regulations which are to be made for the administration of this part, and the code of practice set out in schedule 2 of the Act.

Other provisions are contained in the Bill as to what will be required of the union rules. I want to go on to show exactly how disruptive are the requirements of this Bill in reference to unions and their rules as they endeavour to come to terms with the new regime which will be in place as a result of this Bill. He continues -

Where a union has responsibility for the conduct of the ballot, its administration of the ballot will be supervised by a member of the commission. Any party to an application for a pre-strike ballot will be entitled to appoint a scrutineer for the ballot.

He goes on to claim -

The conciliation and arbitration powers of the commission are not diminished in any way by the provisions of this part.

That is not an accurate claim. The Opposition will amply, capably and adequately demonstrate to any fair-minded person that the claims made by the Attorney about this part of the legislation not diminishing the powers of the commission in conciliation and arbitration are false claims. Increasingly this Government is hell-bent on reducing the Western Australian Industrial Relations Commission to a corpse.

Hon E.R.J. Dermer: That is his life work.

Hon TOM STEPHENS: Occasionally the commission is tarted up with some makeup to prove that it is not dead. However, increasingly the corpse is before us. The commission is being killed off; it is nothing but a dead structure unable to contribute adequately to the industrial relations context in which Western Australia has operated with a considerable degree of success to this time.

The Attorney says that parties will continue to have access to the commission to seek sections 32 and 44 orders where a dispute is threatened or occurring. He says that the intention of a secret ballot is to ensure that unions, when contemplating strike action, must consult with and receive the endorsement of their membership. He says that the pre-strike ballot process will complement existing provisions "by screening out" unsupported strikes. I will go on in a little while to show that "screening out" is a phrase for -

Hon E.R.J. Dermer: Intimidating workers.

Hon TOM STEPHENS: - saying that any form of industrial activity will be made illegal. The Attorney's next claim is that this legislation will enhance the prospects of the resolution of disputes. Again, that is a false claim. The

Attorney states that the legislation will enhance the prospects of the resolution of disputes where a positive ballot has resulted by making employers aware of the strength of feeling among workers. The Attorney says that the requirement to utilise existing dispute resolution procedures prior to conducting a ballot will reinforce the need for compliance to such procedures.

I will move on in my analysis of the Attorney's second reading speech to that section headed "political expenditure". The Attorney states that the legislation will amend the section relating to expenditure for political purposes by expressly limiting moneys which can be used for such expenditures to those that a member gives to the organisation for that purpose, together with any interest earned from moneys in a political fund. When we debate those provisions we will see how that section works, its impact upon the connection between the industrial wing of the labour movement and effectively the political wing of that movement. The Attorney says that because the focus of legislation is on the expenditure by the organisation, references to political donations have been changed to political expenditure. At this point the Attorney has made no mention in his second reading speech that this was the section of Bill that was amended in the Assembly at the instigation of the rebel Liberal, Phil Pandal, so that it would avoid the risk of being struck down by the High Court. The earlier phraseology in the Bill would have guaranteed the striking down of the legislation. However, I still see where there will be a case for even the remnant provisions that are contained within this Bill to run the gauntlet of legal action that might eventually see this section struck down as well. I will go into that argument in a while. We will explain why we object to that section, and what damage it will do. Regrettably, the Attorney knows only too well the damage. That is what he is intent on doing, and that deserves some comment later in the debate.

The Attorney says that union members will retain the right to nominate to which political party or election candidate their individual contributions to the political fund will be given. Interestingly enough this claim is not reflected in the terminology of the Bill. The Attorney says that the organisation will not be allowed to use any part of the membership fees of members for political expenditure and the auditors of the organisation will be required to report on whether there has been any contravention of the political expenditure provisions. That section transfers to the auditors new responsibilities which in the past have by and large been responsibilities of the registrars of the Industrial Relations Commission - not in regard to political expenditure. It is a reversal of the processes that have been in place in the industrial scene up to now. The Attorney warns that any contravention of the new provisions will be an offence attracting penalties for both the organisation and any official involved.

The Attorney has failed to identify the draconian nature of the high cash penalties for both the organisation and union officials; he just notes it. He does not make any great play on it or even specifically spell out exactly how high these cash penalties are. The Attorney continues by saying that conviction may result in an official being disqualified from holding office in the organisation for up to three years. He notes that moneys paid as a result of unlawful political expenditure will be forfeited to the Crown. What an interesting claim to make about the legislation. There are reasonable members opposite, so I will repeat to them what the Attorney says in his second reading speech.

[Quorum formed.]

Hon TOM STEPHENS: I wonder whether any member opposite thinks it reasonable that moneys paid as a result of unlawful political expenditure should be forfeited to the Crown. Does anyone really believe that is something this Bill should provide? I would be fascinated to hear whether anyone opposite would embrace that proposal contained in the Attorney's second reading speech. I see no great rush of members to support it. I hope that is an indication that members opposite do not accept that as a fair principle. If members opposite think that is an offensive provision there is an opportunity for them not to accept the second reading of this debate, not to allow this Bill to be enacted and to reject the legislation to ensure that it is pulled out of this House and out of the Parliament. That will offer fairness, equity and justice for the union movement. If their activities in the political sphere are tolerated and permitted they can take their place just like any other Western Australian voluntary organisation and participate in the political process of this State. I will make an analysis of how the Minister's claim in reference to the Bill squares up.

It is regrettable the Minister says the intention of the Bill is that the organisation whose federal counterpart seeks federal award coverage for employees covered by a state award may have all its rights as a party to the award cancelled and such rights may be given to a substitute organisation. The Minister says that where the related federal organisation notifies the federal commission under section 99 of the federal Act that there is an alleged dispute between it and an employer covered by a state award or industrial agreement, the state organisation will be obliged to notify the registrar of the state commission of that dispute. The Minister indicates that failure to do so will be an offence. He indicates that notifications that have already been made and not withdrawn or determined by the federal commission will be subject to this provision. He says the commission is to advertise for other organisations or employers to apply to have that organisation struck out as a party to the relevant state award or industrial agreement and to have another organisation substituted. When we consider how that provision will operate, we see real

problems associated with this Bill. The Opposition hopes that anyone who looks at the Bill and the way this provision will operate will be convinced of the need to withdraw the legislation.

The Minister goes on to say that the Full Bench of the Industrial Relations Commission will hear applications. If the full bench is satisfied that an attempt has been made to obtain federal award coverage, it must cancel the rights of the state organisation in respect of the employees to whom the application applies and give those rights to another organisation. That is an extraordinary provision. That the Bill would operate in that way is offensive in the extreme. Regrettably this is one of the claims the Minister makes about the Bill that is accurate. It is the way the Bill will operate.

The obligation of the commission to operate in this way is considered by most analysts and operatives in the industrial scene as unhelpful. The obligation is not one that I believe should be enshrined in the Bill. It is an obligation that does not help the industrial relations scene in Western Australia one iota. In fact, anyone who looks at this provision will recognise it as compounding the problems of industrial relations in Western Australia; problems that are reasonably contained at the moment, but that will be exacerbated once that provision comes into effect. Under this legislation an organisation that has its rights cancelled cannot become a substituted organisation in respect of any other organisation that has its rights cancelled. The Minister says the relevant employers will be notified of any cancellation of an organisation's rights and will be prohibited from collecting from their employees any union dues for that organisation. He says the members of an organisation that has had its rights cancelled may demand a refund of a proportion of their union dues. The Minister has not mentioned that the members must resign from the organisation in order to secure that refund. That is an interesting provision of the Bill that is not referred to in the Minister's second reading speech.

The legislation requires that an organisation that has had its rights cancelled give details, if asked, of any affected members in any organisation that is substituted for it. The Minister gave no explanation for the inclusion of provisions in the Bill for pending proceedings. The justification in the Minister's second reading speech for why this Bill should be accepted and embraced by the House refers to unfair dismissal. The Minister says the majority of provisions in part 6 will amend the unfair dismissal proceedings in the Industrial Relations Act 1979 and the Workplace Agreements Act 1993. He says they are consistent with the changes made to the termination of employment provisions in the commonwealth Workplace Relations Act 1996. The Minister has told us what the majority of the provisions set out to do; perhaps he could tell us what the rest of the provisions will do. I will be interested to hear what the Minister has to say.

The Minister boasts that employers will no longer have the burden of showing that the grounds on which they dismissed employees were justified. So glibly are the words thrown away in the Minister's second reading speech. When we go into the detail of the Bill and see the plain meaning of the Minister's words, we see what the Bill will do. It is savage legislation. It is all the more reason why fair minded Western Australians, even if they happen to be conservative legislators of the Legislative Council, should dismiss the prospect of giving this Bill a second reading. The onus will be on the employee who alleges the dismissal was harsh, oppressive or unfair to prove it. The Minister calmly gives that as his explanation for the way the Bill will operate and he does not even include an apology. He simply says that is the way it will be.

Hon Kim Chance: That is obviously part of making it a fairer workplace and more rewarding.

Hon TOM STEPHENS: Yes. In the view of the Minister, these provisions will do that. He says the Bill will provide greater choice for employers in dealing with employees who have had unfair dismissal claims resolved in their favour. According to the Minister, by virtue of these provisions employers can now decide whether they wish to compensate employees for loss or injury caused by dismissal instead of offering reinstatement or re-employment. That claim was made in the second reading speech of the Minister for Labour Relations in the other place, but it is omitted from the speech made by Hon Peter Foss in this House. That provision was not amended in the other place; therefore, why was the claim omitted from the second reading speech in this place?

Hon Kim Chance: Just run through that again, because members opposite might have missed it.

Hon TOM STEPHENS: The Attorney General is yawning.

Hon Kim Chance: I am sure they want to know.

Hon TOM STEPHENS: The Attorney General spends most of his time either fiddling with his instruments and displaying complete disinterest in anything I say -

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! I suggest Hon Tom Stephens address the subject and the Chair and not be distracted by the comments of his colleague.

Hon TOM STEPHENS: I was being distracted by the disinterest the Attorney General was showing to my speech to this House.

The DEPUTY PRESIDENT: Order! If the member addresses the Chair, he will not be distracted by anybody. I certainly will not interrupt.

Hon TOM STEPHENS: All I hope is that at some stage the Attorney General might explain to the House why the Minister for Labour Relations said in another place that under this legislation employers will be able to decide whether they want to compensate employees for loss or injury caused by dismissal instead of offering reinstatement or re-employment. Minister Foss has not made the same claim with reference to the Bill, and I seek an explanation for that. Have changes mysteriously been made to the provisions? After the Bill left the Legislative Assembly and before it got to this place did a provision drop off? Is that the reason it was not referred to in this place or is there some other explanation?

[Quorum formed.]

Hon TOM STEPHENS: I want to examine those questions as we proceed. The Minister also said that the impact of paying compensation to employees will be minimised, as the WA Industrial Relations Commission or the Industrial Magistrate's Court may now permit employers to pay compensation in instalments. The Minister then referred to part 7 of the Bill dealing with miscellaneous provisions relating to awards. With reference to the collection of union dues, the Minister indicated that the legislation would remove an anomaly arising from the 1993 legislation. At that time the collection of union dues, other than by agreement, was removed as an industrial matter. However, in the Minister's view the legislation did not negate the existing provisions in awards. Therefore, it is proposed in the provisions of this Bill to ensure that the collection of union dues will no longer be an industrial matter and any existing provisions in awards and agreements will be of no effect. The Minister said that any arrangements between unions and employers, or employees and employers, for the collection of dues will in future be handled administratively on an employer by employer basis.

With reference to right of entry, which is a very interesting provision in the Bill, the Minister said that to prevent some of the abuses that have occurred, the power of the commission to make awards allowing the union officials access to the business premises of employers may arise only where a member of the union is, or has been, employed by the business. Therefore, any inconsistent provisions in awards and agreements will be of no effect and will be removed. The Minister said the new provisions ensure that a union representative may enter premises only to deal with an industrial matter involving a member. I ask members to give some thought to that statement - even the distinguished Senator-elect Lightfoot. I am analysing the Minister's second reading speech in defence of the Bill. If members opposite give some thought to that claim by the Minister, they will rush to join me in voting against the Bill. It is hard to convince members opposite. What would be the impact of this provision? For example, I refer to a union representative of the shop assistants' union. I do not know how many members opposite own shops, but I know that Hon Barbara Scott seems to own everything. The Minister said the new provisions ensure that any union representative may enter premises only to deal with an industrial matter involving a member. There is a fair chance that even after the passage of this Bill, a few members of the shop assistants' union will remain. We know the federal shop assistants' union has managed to make other arrangements, but I use it as an example for the moment. Presumably some members of that union would be working at major stores, such as Myers, Woolworths or Coles. The Bill provides that where the commission has made an award allowing union officials access to the business premises of employers, a union representative may enter the premises only to deal with an industrial matter involving a member of the union. I ask members to think about that provision.

Hon John Halden: He could not collect union dues because it is not an industrial matter.

Hon TOM STEPHENS: I refer again to that provision in the Bill. It would be difficult for a union official to go shopping because according to the Minister's speech a union representative could not go onto the premises of any of the large stores to which I have referred because he would not be dealing with an industrial matter, as required in the legislation.

Hon E.R.J. Dermer: The Minister has no respect for human rights.

Hon TOM STEPHENS: He does not even seem embarrassed about the claim he makes for the Bill. I refer members to page 21 of the Minister's speech distributed in this House. I hope some members opposite will be alarmed about this point. None of them is rushing to check the speech. They should think about, for example, a nurses' union official. That union will have employees at the hospital. The Minister said in his second reading speech that a union representative may enter premises only to deal with an industrial matter involving a member. Therefore, if my interpretation of the Bill is correct, a nurses' union official could not go to the hospital unless that official were pursuing an industrial matter. Has Hon Bruce Donaldson read the provision?

Hon B.K. Donaldson: I have read it and I have also read the Bill.

Hon TOM STEPHENS: Is that what the Minister said?

Hon B.K. Donaldson: I have read the amendments too.

Hon TOM STEPHENS: There are no amendments to this part of the Bill.

Hon Peter Foss: Read the Bill.

Hon TOM STEPHENS: We are just dealing with the Minister's speech.

Hon Peter Foss: You will understand it if you read the Bill.

Hon TOM STEPHENS: I understand the Bill as much as the Minister does. I hope that at some stage he will deal with the second reading speech and advise whether he thinks it is a reasonable way in which to operate.

Hon Peter Foss: It does, but it does not mean what you said it means.

Hon TOM STEPHENS: It means what it says. The Minister should refer to page 21 of his speech; he will find that he makes that claim. Nurses' union officials will not be able to go to the hospital any more.

Hon Peter Foss: That is not what it says.

Hon TOM STEPHENS: Let us read what the Minister said. I will go through all these box files during this debate.

Hon Peter Foss: It reminds me of Hon Kim Chance not reading the standing orders properly.

Hon TOM STEPHENS: The speech reads -

New provisions ensure that any union representative may enter premises only to deal with an industrial matter involving a member.

I go back to what the Minister said -

To prevent some of abuses that have occurred, the power of the commission to make awards allowing unions officials access to the premises of employers may only arise where a member of the union is, or has been, employed by the business.

When one reads the Bill in reference to the Minister's earlier claims, and puts it in the context of the blue Bill, the matter becomes clearer.

Hon Peter Foss: It does not mean what you say it means; you're extension is incorrect.

Hon TOM STEPHENS: I have extended nothing. I have read the speech.

Hon Peter Foss: It is correct.

Hon TOM STEPHENS: Reading the speech leads to the conclusion that it is a disgrace. The Minister has a way out. Fortunately, the Bill does not do what the Minister's second reading speech would have us believe it does, which is a relief. If one relied on the Minister's second reading speech, one would be very concerned. It is nevertheless worthwhile developing the theme a little.

If a teachers' union official drops off his children at school, and opens the gate and enters the grounds, although he is not there for industrial matters, he is a union official and an award applies to the premises he has entered.

Hon Peter Foss: It does not say in the second reading speech that union officials are forbidden.

Hon TOM STEPHENS: Let us go back to page 21 of the Minister's speech. He understands nothing. He said -

New provisions ensure that any union representative may enter premises only to deal with an industrial matter involving a member.

The Minister then outlines how this might interface with the lives of union officials. It relates to dropping children off at school.

Hon Peter Foss: It does not say that, and nor does the second reading speech.

Hon TOM STEPHENS: Stop twaddling on, Minister.

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! If the member addresses the Chair and stops trying to provoke the Minister who is being disorderly, we will make great progress.

Hon TOM STEPHENS: A police union official cannot report a crime, as he cannot go into the police station, if one reads the Minister's claims in relation to the Bill literally. They would be premises with which that union has an award. As a result, we would be left with some difficulties.

I know I have drawn a long bow because I have relied on the claims made in the second reading speech. When one goes into the detail of the Bill, one must think about the examples which might arise. If a shop assistants' union official, someone as famous as Joe Bullock or Martin Pritchard, is shopping down at Woollies, once the Bill is passed -

Hon John Halden: He would not be able to afford it!

Hon TOM STEPHENS: - he or she would be at risk. Think of the possibilities. If somebody started to talk about industrial matters while the official was at Woollies, somebody could end up in trouble. Imagine if a nurses' union official is having a heart attack, during which someone explains her dreadful working conditions, the official would be at risk of being charged under the provision of the legislation. I am sure the Attorney General did not have such intentions with the legislation. Even though he is extreme, he is not the most extreme colleague in this Government. He has a madman handling the matter at the other end, and that madman could do anything with these provisions.

Withdrawal of Remark

Hon PETER FOSS: That is an improper reference.

The DEPUTY PRESIDENT: Order! The member will withdraw.

Hon TOM STEPHENS: I withdraw, and I will find another way to say the same thing later.

The DEPUTY PRESIDENT: Be careful about referring to a member of another House. I warned Hon Ed Dermer before not to interject while his leader is speaking; he is doing a good job on his own.

Debate Resumed

Hon TOM STEPHENS: The Minister said -

The dispute settlement procedures inserted in all awards and agreements will be amended by provisions which require the parties involved in any question, dispute or difficulty to confer among themselves and attempt to resolve the matter before taking it to the commission.

The Minister said that with a straight face. This is from a Minister in a Government which has proved itself completely incapable of conferring with the industrial movement before coming to Parliament with legislation. Without laughing or presumably being embarrassed, the Minister said that all parties in industrial disputation will be required to confer and consult, even though the Government cannot do so itself. That is the case despite the consequences of the legislation now before us.

The Minister then refers to the inspection of time and wage records. He says that the rights of union officials to inspect employee records will be amended by the legislation. In future, the employer will be able to refuse unions access to employer records if the person is of the opinion that access will infringe on the privacy of non-union employees.

I do not know what was in the newspaper today, but I hope the Attorney General is reading another editorial telling him to pull the Bill out of the House.

Hon Max Evans: Surely you do not believe what they write.

Hon TOM STEPHENS: I hope that he gets the same message from the newspaper that I am giving him; namely, not to persist with the legislation. Also, I hope he will pay some attention to what I am saying. Regrettably, everything about the Minister's manners and manner in this debate, and in every other debate in which he has participated, whether in government or opposition, displays a great arrogance; he has always dismissed the viewpoints of all around him. The combination of Ministers Kierath and Foss produces a potent brew of devastation for the people of Western Australia.

Hon Max Evans: You're lucky to have them to help you.

Hon TOM STEPHENS: The Minister will go back to his mansion and roll along in his Rolls-Bentley and inflict on people less fortunate than himself severe hardship.

[Quorum formed.]

Hon TOM STEPHENS: We were just talking about how the super-rich Minister for Finance can say that the provisions in this Bill are fantastic because they will not affect him. It shows he has an enormous disregard for those other than his extremely rich mates, and the rest of the world can go hang.

In relation to the inspection of time and wages records the Minister tells us that the rights of union officials to inspect employee records will also be amended by this legislation. In future an employer will be able to refuse the union access to employee records if the employer is of the opinion that the access will infringe the privacy of non-members of the union. According to the Minister, in future the union will be able to ensure that its members are correctly paid, because, if access to the records is refused, the employer must produce the records to an industrial inspector within 48 hours and the inspector will then provide the union with relevant extracts relating to the union members. According to the Minister, the legislation ensures that any inconsistent provisions in awards and agreements will be invalid and will be removed.

The second reading speech then goes on to talk about the miscellaneous amendments. The Minister claims that the prevention and settlement of industrial disputes by conciliation continues to be one of the main priorities in the industrial relations system in Western Australia. I ask members to listen to this claim.

Hon John Halden: I am waiting with bated breath.

Hon TOM STEPHENS: I am glad someone is because no-one on the government benches seems to be.

Hon Max Evans: We were just discussing whether it will take four or five hours.

Hon TOM STEPHENS: I will sit down as soon as the Government says that it will withdraw this legislation. I will jump at the opportunity to sit down as soon as those opposite give me a sign that they are surrendering. Until then I will sit down only when I have succeeded in convincing them of my point of view or I have come to the conclusion of my remarks. At some stage I hope those opposite will raise the white flag and say that they will finally retreat with the legislation.

Hon Max Evans: Your children will be at university by the time you finish this.

Hon John Halden: Have you seen Tom's two year old?

Hon Max Evans: Yes, we see him regularly.

Hon TOM STEPHENS: When those opposite have agreed to withdraw the legislation, I will sit down. I see Hon Muriel Patterson waving her arm, but I think she waves that "white flag" in jest. We must be absolutely convinced that those opposite will not rat on any deal, go out of the House and not vote for the Bill. Until that happens, I will press on with all the arguments for why we should not proceed with this Bill.

Hon B.K. Donaldson: I see that you have brought a file with you.

Hon TOM STEPHENS: I have some items with me that will help with my contribution, and I will draw on a few of them during the debate.

The Minister says that this legislation ensures that any inconsistent provisions in awards and agreements will be of no effect and will be removed.

Hon John Halden: I hope Hon Murray Montgomery is awake. I see that he is now.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): I recognise that every moment the Leader of the Opposition replies to interjections, it is subtracting from the record time during which he will speak. I suggest that he address the Bill.

Hon TOM STEPHENS: I appreciate the opportunity of speaking to the House, and I will take as long as it is necessary to put my point across. I hope Hon Murray Montgomery might find this claim from the Minister a source of some mirth.

The Minister says that the prevention and settlement of industrial disputes by conciliation is one of the main priorities in the industrial relations system that we have had in Western Australia, and it will continue to be so. I will note a couple of ways in which peace is achieved within any community. That is done through ensuring justice, and not through the provisions in this Bill. They will not achieve the prevention and settlement of disputes.

The Minister says that to minimise the impact of strike action on the Western Australian economy, this Bill will provide the WA Industrial Relations Commission with enhanced powers to prevent strike action. He forgot to mention that the Bill removes from the commission discretion and powers in so many areas that it could easily run the risk of being quite useless in resolving any industrial dispute that can easily emerge without the presence of a strong umpire. Regrettably the Government does not believe in an umpire. That is evident all the way through the

provisions of the Bill. The Minister wants to tip the scales of justice against the ordinary men and women of Western Australia and firmly in the favour of the likes of the super-rich Minister for Finance and his colleagues

The Minister notes that the provisions of the Bill are similar to those in section 127 in the Workplace Agreements Act. He states that when an industrial matter referred to the commission appears to involve a strike which constitutes a breach of any award, order or agreement to which a union participating in the strike is a party, the commission will now have a duty under both sections 32 and 44 of the Act, to act quickly to order the organisation and those of its members participating in the strike to resume work immediately. I will come to those orders later. The Minister says that this duty will extend to any strike which does, or will, constitute a breach of any understanding, undertaking or procedure agreed to by the union whose members are, or presumably will be, on strike. Furthermore, according to the Minister, the Act will now define a number of strike matters. This is another of the contentious provisions. The Minister says that these will include strikes which occur where a pre-strike ballot has not been held or endorsed; where it has been endorsed, but the action is occurring more than 28 days after the endorsement was confirmed; where a member intending to strike has not given notice to his or her employer; or where the action is not related to claims over wages or conditions of employment.

I will show how that provision connects with the definitions of "strike" and strike actions and the circumstances which require a pre-strike ballot, to use the language of the Bill, and to show why that definition is controversial. Other matters falling within the category, according to the Minister, are strikes which directly or indirectly affect the safety or welfare of participating employees. If Hon Tom Helm were not caught up in parliamentary business, he would be in here asking, "What about the workers?" The Minister expresses no commensurate concern for the safety and welfare of workers soon to be unable to strike to protect themselves, and all of the circumstances which lead to that. The Minister throws in a passing reference to strikes that seriously disrupt the supply of essential services to a significant number of members of the public without making any mention of the can of worms he has opened up.

Passing reference is also made to strikes that might cause undue hardship to any parties to the dispute. He also states that, in respect of any of these matters, the commission must take steps on its own motion or on the application of relevant parties, including parties who are directly affected by or are likely to be directly affected by the strike action, to ensure that normal work resumes immediately. Interestingly, the provisions of the Bill differ from what the Minister has said. He said that the commission must take steps, but the Bill contains a different proposition altogether. Fortunately we have the opportunity to illustrate the impact of that further down the track.

The Minister then explains that the Supreme Court will be able to enforce commission orders by granting injunctions unfettered. This is an area that I hope Hon Nick Griffiths will address; that is, the operation of the Supreme Court in enforcing orders in reference to the granting of injunctions.

Hon N.D. Griffiths: The Bill proposes to use the administration of justice to inflict injustice.

Hon TOM STEPHENS: I will be interested in the member's developing the theme.

Regrettably, I have lost the Attorney General's attention; he is getting fresh instructions from the Premier. I am sick of the many intrusions by members of the other place. It is extraordinary when one tries to present a case to a Minister about why he should desist from pushing through a Bill that he is getting fresh instructions from the Premier. The only instruction I would be satisfied with would be to withdraw the Bill. If that is the instruction the Premier is now giving the Attorney, we are ready to oblige.

Hon Peter Foss interjected.

Hon TOM STEPHENS: I regret that he is not, but it is time he did.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Perhaps the member will address the Chair.

Hon TOM STEPHENS: Through you, Mr Deputy President, I inform the Premier that it is time to give that instruction. He should withdraw the Bill and save us all the pain and penalties that will be inflicted on the people of Western Australia.

Hon Max Evans: Like the pain we are suffering now.

Hon TOM STEPHENS: There will be more. I will never forget what members opposite have done in the dying days of their control of the Legislative Council. Members know how passionately I feel about politics.

Hon Max Evans: We have noticed it.

Hon TOM STEPHENS: I am glad. It is a result of life's experiences. This is another one of those experiences that will colour the way I participate in the political theatre.

Hon Max Evans: I hope you get your children a bound copy.

Hon TOM STEPHENS: It is not simply the speech and the passion; that does not matter. I will never forget what members opposite do as conservatives in the various processes in which they participate. I will never forget the pain that the current Premier and Government are inflicting on the people of Western Australia. They make me passionate in my response to their presence on the Treasury bench. Occasionally I can manage the odd pleasantry, but I am not the best at that because I have an understanding of the damage that they do while in government in areas such as these and others.

Hon B.K. Donaldson: You said that in 1993.

Hon TOM STEPHENS: I did. They have now ensured that the people of Western Australia will not forget the damage they have done. Their activities in this Parliament in recent weeks are indelibly inscribed in the memory of the people of Western Australia -

Hon N.D. Griffiths: Half of the members opposite are brain dead.

Hon TOM STEPHENS: They are indeed.

Hon Murray Montgomery: You have a short memory about what the Labor Government did.

Hon TOM STEPHENS: The important fact is that we never set out to attack the ordinary mums and dads like members opposite do regularly. Regrettably these people - about whom the Minister for Finance knows nothing - can least afford the damage that is inflicted by legislation such as this. I hope that somewhere down the track sanity will prevail, the Bill will be withdrawn and there will be some prospect -

Several members interjected.

The DEPUTY PRESIDENT: Order! Hon Nick Griffiths and the Minister for Finance will desist from their talk across the Chamber.

Hon N.D. Griffiths: I will not respond to his interjections.

The DEPUTY PRESIDENT: The member was asked to desist.

Hon TOM STEPHENS: The Minister notes that an amendment will be made to the Minimum Conditions of Employment Act 1993 to provide that an employee who terminates his or her employment unlawfully or is dismissed for misconduct will not have an entitlement to any pro rata annual leave. Members should think about this. The Minister says that this will alter the present provisions, which have caused some problems for employers; namely, those provisions relating to annual leave that require employers to pay pro rata annual leave on termination regardless of the reasons for the termination. The Minister says that an employer who has dismissed an employee for misconduct, even where that has involved stealing from the employer, is currently obliged to pay the employee his or her pro rata leave entitlements.

The Attorney General returns smiling from his discussions with the Premier. I hope that means the instruction is that the pain is over and the Bill is to be withdrawn.

Hon Peter Foss: We were not discussing the Bill.

Hon TOM STEPHENS: Has he sacked the Attorney?

Hon Peter Foss: No.

Hon TOM STEPHENS: They are two great disappointments. Regrettably there is no good news for the Chamber; the Bill will not be withdrawn and the Attorney General has not been sacked. Western Australia is still faced with tragedy on both counts.

Hon A.M. Carstairs: The Premier will be remembered long after the Leader of the Opposition.

The DEPUTY PRESIDENT: Let us not have interjections.

Hon TOM STEPHENS: That was one of his longest speeches.

Hon A.M. Carstairs: I was always taught that you should not speak when others are speaking.

Hon TOM STEPHENS: Hon Mr Carstairs will not be here for long and I hoped he would have a chance to make some speeches before he left.

Hon E.J. Charlton: He will follow you.

Hon TOM STEPHENS: As long as he says that he will not vote for this Bill, we will welcome his contribution to the debate. Hon Mr Carstairs could go down in history as a very famous occupant of that seat.

Hon N.D. Griffiths: He is already.

The DEPUTY PRESIDENT: Hon Tom Stephens should return to the Bill.

Hon TOM STEPHENS: Hon Mr Carstairs could make himself famous by voting against this Bill.

Hon E.J. Charlton interjected.

Hon TOM STEPHENS: The Minister has distracted me.

I was pointing out that the Minister said that an employer who has dismissed an employee for misconduct, even where that misconduct has involved stealing from the employer, is currently obliged by the legislation to pay that employee his or her pro rata leave entitlements. The Minister says that with the passing of these provisions that anomaly will no longer apply. This Minister is blithely ignorant that this is an attempt at legalising theft; it steals the otherwise legal entitlement of a dismissed employee to his or her annual leave. The second reading speech does not give any detail of how much accrued annual leave will be taken from the employee. Do members opposite believe that all of the accrued annual leave should be taken from an employee who had worked for five years and built up five years' annual leave, which might be a reasonable sum, and who was dismissed for stealing from his employer?

Hon E.J. Charlton: The same thing would happen to us if we were caught stealing in this place.

Hon TOM STEPHENS: So the Minister thinks that provision is reasonable?

Hon Peter Foss: The other day we passed a Bill like that for us, and you voted in favour of it.

Hon TOM STEPHENS: To which Bill is the Minister referring?

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! The Bill to which he is referring is the Labour Relations Legislation Amendment Bill, and that should be the only Bill to which he refers.

Hon TOM STEPHENS: I am referring only to that Bill.

The DEPUTY PRESIDENT: The Leader of the Opposition is the only member entitled to speak, so will he please address the Chair?

Hon TOM STEPHENS: I was trying to find any member opposite who thought that provision was fair.

Hon Peter Foss: We said yes.

Hon TOM STEPHENS: It would not matter to how many years of annual leave those people were entitled, the Minister would take everything off them?

Hon Peter Foss: Read the Bill.

Hon TOM STEPHENS: I am talking about the second reading speech.

Hon Peter Foss: There is a slight difference. One gives general detail; the other gives specific detail.

Hon TOM STEPHENS: I am interested to find out the difference.

The DEPUTY PRESIDENT: Order! If the House wishes, we can proceed with the Committee stage, where dialogue of the kind that members are now entertaining is quite legitimate; otherwise, we are in the second reading stage and Hon Tom Stephens is addressing the Chair.

Hon TOM STEPHENS: I have elicited from the interjections of members opposite that a number of them - I do not think there is any dissent - think that it is reasonable that the outline of the Bill as given by the Minister in his second reading speech actually represents the provisions of the Bill, because the Minister's outline suggests that now an employee who is dismissed for stealing from an employer can have all of his annual leave entitlements, no matter how many thousands of dollars are involved in such annual leave, forfeited to the employer. Hon Alan Carstairs nods again. I am sure he would want to cut off their arms and legs as well. Where would he stop?

Hon B.K. Donaldson: He was a butcher by trade!

Hon TOM STEPHENS: Was he? I thought I would find someone on that side who had a heart. It seems that this legislation is moderate compared with what some members opposite are capable of. Fortunately, the provisions of this Bill do not represent the outline that the Minister has given in his second reading speech.

Hon Peter Foss: It is all in the detail.

Hon TOM STEPHENS: It is all in the detail! The devil is in the detail, and the devil, regrettably, is alive and well tonight and operating on the stage of Western Australia, and is participating in the processes of this House by ensuring that this wicked and evil legislation is before this Parliament.

Hon E.J. Charlton: The spirit of the devil is over there! You cannot see it.

Hon TOM STEPHENS: I will have a few things to say to the Minister later. I have got them saved up for him.

Hon P.H. Lockyer interjected.

Hon TOM STEPHENS: Indeed I did, and I will draw on some of that experience later.

The DEPUTY PRESIDENT: Order! May we return to the Bill.

Hon TOM STEPHENS: We are going to deal with the Bill -

The DEPUTY PRESIDENT: Order! We are not going to; we are dealing with it.

Hon TOM STEPHENS: We will deal with it extensively during my contribution to this House. I will draw on some of my experiences as reasons that this Bill should not be given a second reading.

Hon Peter Foss: You are going to flagellate yourself.

Hon TOM STEPHENS: It is regrettable that Hon Peter Foss treats this as some sort of university debate where we can all get up and say witty things and speak in jolly good form, and does not give a damn about the damage that he is doing to ordinary Western Australians. He can make his flippant comments and think it is all very entertaining, but in the end, ordinary mums and dads, ordinary people in Western Australia, will be savagely affected by the provisions of this legislation. The worst part about this is that it is not a university debate -

Point of Order

Hon P.R. LIGHTFOOT: Mr Deputy President, Hon Tom Stephens is again straying from the substance of the matter before the House, and he should properly return to the Bill.

The DEPUTY PRESIDENT: Hon Ross Lightfoot has made a pertinent point, and I ask Hon Tom Stephens to focus on the Bill.

Debate Resumed

Hon TOM STEPHENS: A Bill that comes before us is different from the high school or university debates in which the likes of Hon Peter Foss would, no doubt, have participated in the past, and in which he could be flippant about the resolution of the question before the Chair. The Bill that is currently before us in this place will not be inflicted lightly upon the people of Western Australia. It will inflict upon them a heavy penalty. In those circumstances, a great tragedy will occur if the Attorney General continues to treat these questions lightly.

The second reading speech states that -

These amendments complement the provisions of the Workplace Relations Act 1966 and enable employees covered by federal awards to enter into collective workplace agreements without the threat of parts of those agreements being overridden by a federal award.

The Workplace Relations Act 1966 requires certain tests to be applied to enable state workplace agreements to override federal awards and, since these tests are not currently contained in the Workplace Agreements Act 1993 -

Hon Peter Foss interjected.

Hon TOM STEPHENS: The Attorney General was giggling away on the front bench. I find him offensive. I want to record in *Hansard* at this point that the three Ministers on the front bench were giggling while I was talking about some of the serious provisions of the Bill.

Hon N.F. Moore: It was nothing to do with you. It was another matter.

Hon TOM STEPHENS: I find it offensive that when I am talking about a serious piece of legislation, Hon Peter Foss is giggling away on the other side of the House. I find him an offensive Minister, I find his behaviour in the Chamber offensive, I find this legislation offensive, and I wish he would desist.

The DEPUTY PRESIDENT: Order!

Hon TOM STEPHENS: I will come to order, and I hope the Attorney General will as well.

Perhaps the Attorney could throw some light on why Minister Kierath said that the Workplace Relations Act requires certain tests to be applied to enable state workplace agreements to override federal awards and, since these tests are not currently contained in the Workplace Agreements Act 1993, the Bill provides that the tests must be met before an agreement can be proved. The Attorney General has changed that word to "registered". Is there some reason for the change in terminology between the speeches in the two Houses? If so, what is the explanation?

According to the Attorney General, the tests will be that the agreement complies with the Act; the employees covered are not disadvantaged in comparison to their entitlements under the relevant awards; the agreement was genuinely made, and covers all the employees whom it would be reasonable for the agreement to cover.

The Attorney went on to say that the Workplace Relations Act 1996 also requires that agreements shall be registered by a state industrial authority. The Bill provides that this body shall be the Commissioner of Workplace Agreements. In future the commissioner will determine whether a workplace agreement meets the above test and, if it does, it is the commissioner who will approve the agreement.

The Attorney indicates that the commissioner can also be appointed by an employer and an employee as an arbitrator on disputes over the meaning or effect of such workplace agreements, although I am yet to find that provision in the Bill.

The Attorney concludes by saying that most of the provisions of this legislation have been before the Parliament previously. He claims that they have been endorsed, since that time, by the people. The Attorney says that it is the coalition's firm view that these provisions will introduce long overdue rights for employees in the areas of pre-strike ballots, political expenditure, and inspection of time and wages records. The Attorney claims that these new obligations on union officials will be of benefit to union members as a whole, by providing the basis for higher standards of conduct in union administration. The Attorney says that the federal award provisions, and the new category of workplace agreements for federal award employees, will strengthen the rights of people who wish to stay within the state system. According to the Attorney this Bill will enable Western Australia to remain at the forefront of innovation and best practice in Australian industrial relations, and he commended the Bill to the House. He said all of that without laughing. Nonetheless the Bill does none of those things.

To this point, I have been dealing with the Attorney's second reading speech. I have listed all the areas upon which the Attorney has touched. Now, I turn to the first of those areas, and will go through them so that ultimately the House will come to one conclusion only. This will be a journey on which I will take the House. I will address the points made in the second reading speech, one of which is the history of the context out of which we are operating in addressing the proposed amendments which the Attorney has placed before us. I will put aside the first six pages of my notes because I have already drawn on those matters.

The Government has claimed that it has some sort of mandate for this Bill. Regrettably, nothing was said about this legislation at the last election, either by Ministers or within a Liberal Party policy statement. If legislation such as this was so popular, a Government would not want to hide its light under a bushel; it would not want to hide the details of the legislation from the public. However, that is what happened in the lead up to the last state election, and the one before it.

I turn to my box of documents.

Hon N.D. Griffiths: If it came from the Liberal Party, it would be Pandora's box.

Hon TOM STEPHENS: This box contains the Liberal Party policies on labour relations.

Hon N.D. Griffiths: No wonder it is hard to find!

Hon TOM STEPHENS: It is difficult to find the mandate about which the Government speaks.

Hon N.D. Griffiths: You cannot find that which does not exist.

Hon TOM STEPHENS: That is right. I will address the question of mandate. The Attorney states in his second reading speech that the Government has a mandate for this legislation. He has referred to policy documents as the justification for the mandate. He has stated that the Government has received community support for that mandate. In a moment I will talk about the community's reservation about this legislation - specifically about the reservation of the churches and how they, in particular, understand the legislation better than most, for many reasons. I will build on the analysis of the legislation which the churches have undertaken. I will indicate why this legislation is understandably subject to an enormous level of disquiet and concern within the mainstream Christian community,

and for good reason. Any mainstream Christian, anyone who has undertaken an analysis of the legislation and understands what it is to be a Christian, would realise why people should be worried about the provisions in this Bill. I will develop that theme in a moment.

First, the document titled "Fightback Western Australia; Jobs and Choices; a Time for Change" is referred to by the Attorney as being the justification for all the things he wants to do. Sections of this policy document were the basis of earlier legislative initiatives during the Government's last term in office. When the Government faced the most recent state election, it produced a new document called "More Jobs and More Choices", which was dated 27 November 1996. When the document was released the Government boasted about how the strategies that had been unleashed during its previous term in office had, by and large, been implemented; that great progress had been made; and that the legislative reform package it wanted to put in place had been substantially implemented. The document concludes without indicating any specific new agenda items such as those contained in this Bill.

I was thinking of going through both documents, but as I recall their contents I realise that I can provide a simple summary of them. The labour relations document produced in the lead up to the 1993 election refers to jobs and choices, and a time for change. It also contains some of the provisions in this Bill. However, in 1996 the Government said that it had done everything it wanted to do, by and large, in those areas, and made no specific reference to that point in "More Jobs and More Choices".

When searching through the media detail available in the Parliamentary Library, to discover what went on in the lead up to the recent state election, we found that the Government was mute on those questions. I could find no media analysis of Mr Kierath's legislative initiatives. I could find no reference to a plan to introduce savage legislation of this type. The Attorney should not come to this place and talk about having a mandate if, in the lead up to an election, the Minister for Labour Relations was not exposed to public scrutiny, but immediately after the election appeared as large as life, dominating the stage, and pushing an ideological agenda which was not referred to during the election campaign and scarcely touched on in any policy documents. Despite all that, the Government claims it has a mandate.

That is basically dishonest. Why did the Premier promise that the Government would not promote this divisive and unnecessary legislation? He promised that as we know from the letter given to the Trades and Labor Council in the lead up to the recent state election. The Premier promised that the Government would not promote divisive and unnecessary legislation. Immediately he got back into office he allowed his Labour Relations Minister to do exactly what he promised he would not allow.

We are left to ask why this Bill has been introduced into this House, driven by a Minister with such energy, it has brought the community of Western Australian to the pressure point it is now at. Why is this State, which has experienced such minimal industrial relations disputes for many years, now to experience increasing and prolonged industrial disputation as a result of this Government's initiatives? I have a table prepared for me based on statistics on industrial disputation in Western Australia. I seek leave to incorporate the table into *Hansard*.

Leave granted.

Industrial disputes: 1989 - 96

Western Australia - Working Days Lost per 1000 employees

Time period (12 months ended)	No of disputes	Australia
December 1985	187 (3rd lowest of the States)	228
December 1986	272 (2nd highest of States)	242
December 1987	213 (2nd highest of States)	223
December 1988	299 (3rd highest of States)	269
December 1989	188 (3rd highest)	190
December 1990	200 (3rd lowest)	217
December 1991	224 (2nd highest)	265
December 1992	98 (3rd highest)	158

December 1993	48 (2nd lowest)	100
December 1994	42 (3rd lowest)	76
December 1995	150 (highest)	79
No figures 1997	No figures 1997	No figures 1997

Hon TOM STEPHENS: The statistics show that there is no justification for this legislation based on working days lost to the community. What are the interesting things about the figures? We know the Government was elected in 1992. Before that industrial disputation was at the rate of 123 working days per 1 000 employees. It skyrocketed to 359 per 1 000 by 1993 and to 157 by 1994. That increased disputation occurred when controversial industrial relations laws were introduced into this State. We also know that with the election of the conservative Greiner Government in New South Wales disputation increased in that State to a serious degree. At the election of the Carr Labor Government in that State there was a dramatic decrease in industrial disputation. The table basically shows the difficulties that arise from controversial legislation that causes disputation. It also shows that we should leave well enough alone. The disputation is not pronounced at the moment.

The Government does not seem to know exactly why it is introducing this legislation. Sometimes it draws on the argument that increased disputation will flow from increased economic activity and sometimes it does not. However we look at them, the statistics indicate that by and large disputation has been low until controversial industrial legislation has created a spurt of industrial strife. That could be avoided by withdrawing this legislation.

I want briefly to deal with a point touched on by other speakers in other debates. These issues deserve scrutiny in this debate. Regrettably, it is the scrutiny we would have preferred the House to undertake through the committee processes of the House. I would have loved to see a thorough analysis of these statistics. That could have occurred by sending this legislation to one of the standing committees of the Parliament about which the House spoke yesterday and which the Government voted against. These statistics would have been subject to good analysis by the committees of this House versus the statistics that are available nationwide and within our own state boundaries to see whether the Government has a legitimate reason for introducing legislation such as this. At least the Government of the day would have no excuse for not knowing what would be the impact of the Bill on the State's work force and economy. That has not happened. It is important for that particular theme to be developed now. In normal circumstances there is a need for legislation like the Labour Relations Legislation Amendment Bill to be subjected to close scrutiny. That scrutiny could be available from experts appearing before committees.

This Bill should have been subjected to an analysis by expert witnesses. I suppose it is not too late for that to occur. For example, on a motion by the Attorney General, experts on days lost through industrial disputation could be brought to the Bar of the House. This House would be derelict in its duties to the people of Western Australia if it did not give the parties affected by the Bill the opportunity to be heard. I am given to understand that the opportunity to refer the Bill to a committee will not arise. Therefore, representatives of employees, employers, unions, the Small Business Association, community groups, women's groups, Aboriginal associations, migrant bodies, youth camps and others will not have the opportunity to make a submission to a committee on their views of this Bill.

Fortunately, I have a number of submissions with me which I will draw upon in my speech. In the normal course of events these submissions would have been lodged through the committee system. As the House will not have the ability to properly review and scrutinise the legislation I will refer to them and members will become aware that many of them refer to the statistics I have put before the House.

Members are aware that the commonwealth Workplace Relations Bill, which this legislation connects to, was thoroughly scrutinised. The Bill was referred to the Senate References Committee and was thoroughly examined by it over several months. The committee's report deserves very close examination by members in this House. A large number of submissions were presented to that committee by community organisations. I will refer to the committee's deliberations. In the meantime, if any member is bothered at this time of night to go to the library, if it is still open, they will find a copy of that committee's deliberations on that Bill. The Federal Government's legislation was a paradigm of moderation compared with this Bill.

For all the reasons I have given, the Australian Labor Party will continue to use its processes in this place to argue the reason that this legislation should not be advanced. Members opposite are aware that members on this side of the House are passionate about wanting the legislation withdrawn. They are also committed to its repeal as soon as they have the opportunity to do so. The Opposition recognises that the working people of Western Australia deserve its support and that support is best expressed by opposition to the Bill. I refer to those people who work in factories,

mines, offices and other workplaces and who, from the date this legislation is enacted, will risk becoming criminals for asserting their human rights in the workplace.

Members know that in discussion on this Bill comparisons have been made between this State and the international situation. This Bill is cleverly designed to achieve what former authoritarian regimes of Eastern Europe achieved in industrial legislation in a much less subtle manner. The Governments of Eastern Europe achieved control over what was formerly freedom of association by prospective members of associations by imposing massive criminal penalties.

Members who know anything about the struggles encountered by people in Poland and the Solidarity movement will recognise that in their struggle those people were up against repressive regimes of the left that implemented massive financial penalties on those associations which were involved in industrial activity. The union movement was repressed in this way and Solidarity became a mass movement which eventually overturned the Government and the laws of that nation to provide freedom of opportunity for workers who form associations to protect and defend their rights. Their struggle gained the support of political and church leaders around the world. The fundamental right of workers is freedom of association - free of involvement by Governments.

When one considers the detail of the Bill one finds that the Government is delving into the mechanics and operations of the unions in a way that is comparable to the situation faced by the workers of Poland and other parts of Eastern Europe where the Government of the left forced people to violate the law to protect their rights to organise. This Government is determined to have this State repeat every mistake that has been made throughout history, particularly in the last decade by the regimes of the left in Eastern Europe. It is interesting to read accounts of the recent history of Eastern Europe. Struggles have taken place to free people of government intervention in the union movement. Positive results were achieved. There are so many ironies in this process.

[Quorum formed.]

Hon TOM STEPHENS: The Western Australian Government's approach to industrial relations is akin to the approach that applied in Eastern Europe under the communists and, interestingly, as has been alluded to one of my colleagues, to the South African regime from the mid-1950s until recently. As Hon Kim Chance will explain in a moment, the clauses of the Bill before the House echo the clauses contained in South Africa's labour laws until recent times. Those countries in the Asian region which are emerging from authoritarian rule and slowly discarding state controlled systems of industrial relations have laws with many of the same provisions that are embodied in this Bill.

It is the Minister's predilection for an authoritarian solution to industrial matters that best illustrates his comments on his return from the People's Republic of China. We all saw the Minister for Labour Relations whip off to China straight after the debate on the Bill in the Assembly. While he was there he produced the famous analysis of the Chinese economy which said that 1.8 billion people were much more competitive than we are and which indicated the challenges for the Western Australian economy and why we needed to get on with reforming processes in this State to make ourselves competitive with the Asian environment in which we are located. The Minister's conclusion is interesting but not attractive.

Hon E.J. Charlton: You do not have to go that far, just go to New Zealand.

Hon TOM STEPHENS: I do not want to go to New Zealand, Mr Charlton. I prefer to live in Western Australia. I prefer to live in a State that is free of labour laws that would have us ape the arrangements of the regimes of China, Korea, South Africa or Eastern Europe and that will be inflicted upon this State if we give this Bill a second reading.

One country slowly emerging from authoritarian rule and vitally important to this State is Korea. I have no doubt that Korean steel plant workers will do what they can to assist their colleagues in Western Australia by demonstrating how this legislation should be repudiated.

Hon E.J. Charlton: What happens if you happen to be wrong on all of these assumptions you are making?

Hon TOM STEPHENS: I am not making any assumptions. I am making an analysis of the context in which we operate as a State and which shows that we are adopting legislation that would introduce labour laws right out of the pages -

Hon E.J. Charlton: It is giving people an opportunity to work instead of facing union domination and fear.

Hon TOM STEPHENS: Regrettably, it does not. What this Bill does is inflict upon the people of Western Australia a penalty so that they are not able to draw on the assistance of the union movement or to pursue their rights to free association.

Hon E.J. Charlton: You told us the world was going to end when we put the other changes through a year or so ago and nothing bad has happened, only good.

Hon TOM STEPHENS: Watch as I further analyse exactly what damage has already been done. Some damage has been avoided because the provisions of the earlier legislation were not as tight as the Government might have liked.

Hon E.J. Charlton: The TLC told us the other day that the workplace agreements were working well.

Hon TOM STEPHENS: I would rely on direct contact with the Trades and Labor Council rather than its using the Minister as its ventriloquist.

Hon E.J. Charlton: I met with them.

Hon TOM STEPHENS: The TLC is implacably opposed to the provisions being put in this Bill. The TLC knows what we know: Up until now it has been able to defend and protect itself because the Government's earlier legislative attempts had some loopholes through which the workers and the union movement of Western Australia were able to draw breath. With the conclusion of this third wave of legislation those air passages will be increasingly blocked. The union movement is being seriously gagged and thwarted in its attempts to deliver protection for workers of Western Australia; unions will be unable to provide workers with the protection and defence they require.

At page 599 of an article entitled "Is there a future for Korean democracy?" in the *Journal of Parliamentary Affairs* 1993, volume 46, there is an analysis of Korea's labour laws. The article authors note that the extent of trade union workers' rights affects the extent of democratisation in any country.

The authors express the issue at the heart of this Bill; that is, autonomy and freedom of action. As they put it -

The issue of trade union rights . . . addresses the wider question of substantive democracy which basically means genuine participation by the majority of people in the political and social affairs of the country. The issue of trade unionism is therefore closely linked to the wider question of a genuinely democratic society in which interest groups enjoy considerable autonomy and freedom of action.

The authors describe the history of trade unions in Korea since 1945 and Government controls that included the power to change union's decisions - which is similar to a provision in the Bill - and to impose strike cooling off periods of three months. Even in authoritarian Korea in the 1950s and 1960s there was a de jure right to strike even if that right could not be exercised in practice. In Western Australia in 1997 there will be neither. The Bill gives Government employees unprecedented control over the internal affairs of trade unions, their officers and employees. Those who fail to recognise impressions such as that which the Minister for Labour Relations has witnessed on his recent trip to China mistake the apparent passivity of workers in China and elsewhere as the manifestation of a stereotypical passive Confucianist work force. This stereotyping is carefully nurtured by those in authority. No doubt this line was parroted to the Minister for Labour Relations on his recent visit to the People's Republic of China.

As we know, the People's Republic of China does not have working conditions that we would want emulated in Western Australia, but that is the sort of arrogant attitude the Minister for Labour Relations has to Western Australian workers. His complete dismissal of the rights of working people is apparent in this Bill. No doubt the Minister felt at home as he drew on the hospitality of his Chinese hosts and explored with them their attitude on industrial relations, which he boasted about when he got back.

Four years on from the publication of the parliamentary affairs article on Korea, if a Korean worker were to arrive at the Perth Airport today, he would feel quite at home in many ways. Korea has just experienced a massive wave of industrial unrest sparked by Government attempts to legislate to reduce employees' rights and working condition. That legislation includes banning the formation of new trade union federations, and giving employers the right to sack workers en masse, to dismiss strikers and to alter workers' hours. The attempts to hinder the operations of trade unions and the changes to dismissal laws have their counterparts in this Bill. Korean workers, through the trade union movement, would not fight back and unions lacked unity, which is much the same perception this Government had of the union movement here. I believe that when this legislation was being drafted, the Government believed that the unions would not be able to mount the sort of opposition that they have subsequently mustered or that they would gain the community support they have. The only supporters the Government has for this legislation come from the extreme fringe of our community; that is, the extreme fringe that is represented by the dominant faction of the Liberal Party or other extremists within our community who do not deserve to be listened to by the Parliament of Western Australia. Those extremist sentiments should not be embraced in Statute.

The Government got it wrong. In all my years of active participation in the political wing of the Labor movement, I have not seen such unity and strength of purpose. The Government has achieved something that is not easily achievable; that is, it has united the Labor movement and given it a sense of unity of purpose. The Government has done what we have been struggling to do; that is, it has united us in a common cause so that we can work as a unit

to turf this Government out of office at the next State election. That has been achieved by the provisions of this Bill. As we have had daily discussions with the union movement about the provisions of this Bill, we have become increasingly united.

The Korean visitor would tell us that the Korean Government had also tried to avoid parliamentary scrutiny of its labour relations legislation. Just like the Government here, when the Korean Government introduced some of its legislative initiatives, it also used backdoor strategies and manipulation of the Parliament to ram through its Bill. This Government's deadline is 21 May. However, that time line has been brought forward to 15 May. The Korean Government was in an even greater rush to get its legislation through the Parliament. It waited until just before dawn on 26 December last year and then convened Parliament. It did not tell the Opposition. However, it enacted legislation just before dawn on 26 December. A new era for this House will dawn in a few days when the new members that the people chose in December will arrive. They will have the opportunity of taking their place in this House and giving it the representation it needs. A Bill of this nature will have little chance of success.

Hon E.J. Charlton: They will be able to bring in another Bill.

Hon TOM STEPHENS: Yes. However, the Minister knows that would be a futile effort when the Government has such a stranglehold on the other House. We will wait for the Government's loss of the treasury benches before we can succeed. It is extraordinary: In many ways this Government is a little like Dracula. It comes in the middle of the night and, like Dracula sucking the blood from his victims, this Government sucks the blood of workers through the provisions of this Bill. Authoritarian Governments like to legislate in the middle of the night so that legislation receives minimal scrutiny. Debating this legislation at 1.00 am reduces the prospects of scrutiny of the Bill. It is a regrettable that the legislation will not get the scrutiny it deserves because of the arrangements put in place by the Leader of the House.

The Korean visitor arriving here today would tell us, just as our State Government has proposed, that the Korean Government invoked the full panoply of the criminal law to crush its opponents. Not only does this Bill contain such provisions, but also the Minister has had a list of criminal charges prepared to be laid against any person who engages in industrial activity on behalf of the work force of Western Australia. The provisions that are being explored and considered by this Government - that is, the use of the Criminal Code as well as the provisions of this Bill - are resonant of the experience of Korea.

Hon E.J. Charlton: I never heard you complaining when union executives were pulling drivers out of trucks down in Fremantle and belting them up.

Hon TOM STEPHENS: This Government is belting up the ordinary mums and dads of Western Australia. It is also robbing them blind by ensuring that this legislation, when enacted, will reduce the incomes of all Western Australians. That is the sort of thuggery that the Government is legalising through the provisions of this Bill. It is legalising theft. It is diminishing the incomes of ordinary Western Australians. As the Minister knows, two wrongs do not make a right. I do not defend thuggery in any form; that is, either that which is done on the industrial front or that which is done on the parliamentary front.

Hon E.J. Charlton: This Bill will stop that.

Hon TOM STEPHENS: It will not.

The PRESIDENT: Order! The Minister can see the Leader of the Opposition is trying to wind up his comments.

Hon TOM STEPHENS: Regrettably, this Government has ensured that there will be increased union activity against the provisions of this Bill and some of the provisions of this Bill might make that activity illegal. I predict more arrests and charges, which in turn will lead to a considerable difficulty for the economy of Western Australia. There has already been a rally and a tent embassy set up over the road, and a small number of arrests. Much has been said about the use of the Criminal Code to evict peaceful protesters from the grounds of Parliament House. I believe that is an additional sad chapter in the sorry saga that is going on in Western Australia today. It is part of the saga of the passage of this Bill through this place. I was appalled when I heard the Minister for Labour Relations refer to the possible use of the Criminal Code. People were carted off in paddy wagons because they protested against the provisions of this Bill. That is a familiar scene.

Hon E.J. Charlton: Where?

Hon TOM STEPHENS: Out the front of this place.

Hon E.J. Charlton: That had nothing do with the Bill.

Hon TOM STEPHENS: They were objecting to the provisions of this Bill and making sure that their protests were heard. However, they were carted away in paddy wagons.

Hon E.J. Charlton: If I had been in the middle of the mall, I would have been carried away as well.

Hon TOM STEPHENS: They were not in the middle of the mall but in the middle of the parliamentary precinct. They were objecting to the provisions of the Bill and making sure that their protests were heard. I would have thought that the parliamentary precinct was a place where they could quite rightfully express their opposition to legislation.

Hon E.J. Charlton: Change the law.

Hon TOM STEPHENS: They were trying to stop a law being enacted. They wanted their voice to be heard. They were hoping that the Government would not be so gaga. They were hoping that the Government would hear their protests. Many of the union leaders in neighbouring countries have been experiencing changes of this sort.

[Quorum formed.]

Hon TOM STEPHENS: Because of protests about legislation such as this and moves against the union movement in Korea, workers have sought sanctuary in the Catholic cathedral in Seoul. The Government has not been able to get them out or arrest them. The Government is respecting the sanctuary but is still trying to pursue the suppression of its unions. In Western Australia our religious leaders have expressed concern about the operation of this Bill and called on the Government to consider it. I will develop that theme about the church leaders who have such grave reservations about this Bill.

Hon E.J. Charlton: Not the ones I mix with.

Hon TOM STEPHENS: I am sorry to hear that. It means that presumably they have not understood the tradition out of which they have come. I look forward to the opportunity of taking the Minister through that. Even that most conservative of organisations, the Organisation for Economic Cooperation and Development, found the Korean laws too much to stomach. The secretary general, Mr Donald Johnson, in what has been described as an unprecedented censure by the OECD, said that the Korean labour reforms did not fully meet the commitments made by the Korean Government concerning freedom of association and collective bargaining.

Those are the same concerns that we have about the provisions of this Bill. Freedom of association and collective bargaining are regrettably restricted by the Bill, as has happened in Korea, which has earned this unprecedented censure by Mr Johnson, who was referring to the very same international standards and conventions which Australia has pledged to uphold and which should distinguish our labour practices from those of emerging parliamentary democracies throwing off the vestiges of dictatorships. We will seek to show how this Bill is failing to meet some of the most basic standards required to maintain the human rights of freedom of association and collective bargaining which are championed by those international covenants. We will illustrate this by reference to the commitments to fair labour practices to which the Australian Government has bound itself by the various international instruments to which it is a signatory.

Let us examine some of the most objectionable provisions of this most objectionable piece of legislation. With regard to the duties of officials of organisations, the Bill allows for changes to section 74 of the Industrial Relations Act. It will extend the definition of "finance official" to include all union employees. It potentially could include all union employees, effectively making union employees liable to prosecution for carrying out their normal day to day work duties while acting in a representative or an advisory capacity. That is using the language of the Bill. That is by and large the sort of work that union employees do in their day to day lives. That includes the bookkeeper, the accountant or the in-house lawyer at the union office. Regrettably, after this legislation is enacted they will expose themselves to severe financial and other penalties under any offences that relate to section 74, even though they may be neither an official of the organisation nor a person who exercises any real control of the direction of the organisation. Simply by virtue of the provisions contained in this Bill, the definitions run the risk of catching every employee in the union organisation structure and subjecting them to penalties.

It is clear that this legislation is all about trying to intimidate ordinary men and women of Western Australia and to discourage them from offering themselves for a role in the union movement. It is a great tragedy that that is the way this legislation would have the people of Western Australia having to operate in the future; that is, being scared of the prospects of the penalties of this Bill. Finance officials could be guilty of an offence under this legislation and would face penalties, including a fine of \$5 000 and daily penalties of \$500. Employees of unions could face disqualification from holding or acting in any office of a union for up to three years. Officers in breach of such orders commit an offence punishable as a contempt of the Supreme Court. Similar obligations are not placed on any other community organisation or corporation. The proposed legislation is clearly designed to weaken the union movement

and undermine the work carried out by unions and to threaten the rights of workers who rely on union representatives to bargain on their behalf.

In my experience of the work force in the Pilbara in particular, I know how often I have had discussions with the management of various mining companies, particularly with Broken Hill Proprietary Co Ltd. BHP points out the advantages of a union work force and strong unions in ensuring discipline in the workplace and the control of mavericks, who can so easily disrupt the workplace. It means that the union contributes an enormous amount to the management of sites and guaranteeing the productivity of sites. In those circumstances it is a great tragedy to see that the wisdom on this issue contained in the management structures of BHP is ignored by the Government as it pursues legislation of this sort, which is a fundamental attack on the union movement. It will deprive industry of an opportunity of benefiting from that discipline which can be made available to the economy of Western Australia through the union movement. That is not the principal reason why the union movement came into existence. However, it is one of the side benefits of it.

The legislation introduces pre-strike ballots which will effectively prevent employee groups from participating in any industrial action unless approval is given through the Industrial Relations Commission. That is under clause 97 of the Bill. The Opposition would support a legitimate attempt to introduce a secret ballot, but this is not a legitimate attempt to achieve that result. This tries to prevent and make illegal union industrial activity, and if the Government gets away with this, that is what will happen. The purpose of this legislation is not to make possible pre-strike ballots; it is to make union activity, the industrial activity of the ordinary men and women of Western Australia of pursuing improvements in their daily lives, almost impossible to organise to achieve results. I will show members why when we get into the detail of the Bill.

The Bill sets up a complex and lengthy process for an application for a pre-strike ballot. That application may be rejected on any number of grounds, and without a pre-strike ballot there is no way in which industrial action may occur without harsh penalties being inflicted on union members. It is important to note that the definition of "strike" includes all forms of industrial action including any actions that may fall well short of actual stoppages of work. The definition in the Bill reads -

"strike" means any action by 2 or more employees, or by any organization of employees, that involves a stoppage of, or ban or limitation on, the performance of work required under an employee's contract of employment,.

This legislation is not about a pre-strike ballot. One has only to read the words in that definition to understand that the Government is not talking about implementing pre-strike ballots for the work force at any time it undertakes any industrial activity of any sort, even stop work meetings -

Hon B.K. Donaldson interjected.

Hon TOM STEPHENS: Not under this Bill.

Hon B.K. Donaldson: Look at the amendments.

Hon TOM STEPHENS: I do not think the member could do anything to resuscitate this Bill or to justify its impact on industrial relations in Western Australia. If the Government managed to improve the definition by doing whatever it proposes to do -

Hon B.K. Donaldson: I think you will be pleased to see it.

Hon Bob Thomas: It increases the number to four.

Hon TOM STEPHENS: This is an irredeemable piece of legislation. If the Government's amendment increases the number to four, regrettably it is a long way short of introducing adequate amendments to the Bill to make it redeemable.

A further disincentive not to undertake any strike action is that the names and addresses of union members must be provided before any ballot can occur. Members opposite may not know that the Australian Labor Party jealously guards union membership lists for a range of reasons. Firstly, they are confidential records of voluntary associations.

Hon B.K. Donaldson: The Western Australian Farmers Federation jealously guards its membership list too.

Hon TOM STEPHENS: The provisions of this Bill require the union lists to be made public. That could expose union members to victimisation in the work place. Members opposite know that.

Hon E.J. Charlton: What, by the union executive?

Hon TOM STEPHENS: By Mr Buckeridge, for instance.

Hon E.J. Charlton: He does not have any trouble with union members - he does not employ any, yet people are queuing up to work for him and to get paid 10 per cent above the award rate.

Hon TOM STEPHENS: Mr Charlton misrepresents the truth.

Hon E.J. Charlton: He is loading 80 per cent of sheep on the waterfront. You told me he was finished.

Hon TOM STEPHENS: Mr Charlton -

The PRESIDENT: Order! He is Hon Eric Charlton.

Hon TOM STEPHENS: I keep forgetting that there is some honour on the other side, at least in their titles. Hon Eric Charlton should know that this Bill exposes union members to jeopardy at the hands of anti-union employers of the likes of Mr Buckeridge and others who are savage in their approach to union members. It is extremely difficult in some work contexts to get employment if one is known to be a member of a union.

Hon E.J. Charlton: I wonder why.

Hon TOM STEPHENS: It is probably because those employers want to exploit their work force.

Hon E.J. Charlton: No. They want them to work, Mr Stephens.

Hon TOM STEPHENS: Mr Charlton is such an offensive Minister at times, but I will not be distracted by his offensiveness. That is not an appropriate response to the working men and women of Western Australia who want the right to work. The union movement is based on the desire of workers to organise to ensure the prospects of working in fair and equitable circumstances. The union lists are jealously guarded by the union movement and to have these legislative provisions in this Bill guarantee that there will be a legal obligation to produce those lists, to make them available to all and sundry, is offensive to the union movement and understandably is vigorously resisted by it. What right has this Parliament to obligate voluntary associations of workers to produce those lists to expose those workers to the types of discrimination that are increasing within our society?

The Attorney's second reading speech states that where there is sufficient evidence of union officials encouraging or organising a strike action their union can be deregistered or suspended by application of the Minister for Labour Relations. A clear intent of the pre-strike ballot is to ensure that workers' rights to strike are made invalid and union participation in industrial action is minimised. The complexity of the pre-strike ballot requirements will impose delays in effecting industrial action. Furthermore intimidation of union members through a provision to make their names and addresses available to outside bodies is designed to offer a disincentive to any form of industrial action. Employees who are party to individual contracts or workplace agreement are neither obligated nor permitted to engage in pre-strike ballots. This highlights the inequity between those employees under workplace agreements and those under award or union negotiated enterprise agreements.

The political expenditure section of the Labour Relations Legislation Amendment Bill was originally written in such a way as to place restrictions on unions making expenditure in connection with directly promoting or opposing a political party or candidates in a parliamentary election. As we know, that provision was eventually changed. As the Bill now stands, political expenditure is limited to making payments or paying the expenses of a party or candidate. With one administrative arrangement applying to the general community and another to unions, such restrictions situate unions as distinct from any other organisation or community group.

Mr Donaldson referred to the membership list of the Farmers Federation. That organisation will not be disadvantaged in the way that the union movement will be by virtue of these new provisions that will apply to political expenditure. The Farmers Federation is not to be subject to a ban on the use of its funds for political expenditure, as is the union movement. No other voluntary, free association of men and women in Western Australia has this penalty or restriction imposed on it as this Bill will do to trade unions.

Hon Bob Thomas: There are no restrictions on professional associations.

Hon TOM STEPHENS: Professional associations are not being knocked down and belted, and denied the opportunity for political activity.

The last time we had a legislative measure to restrict the political rights of citizens was, I think, in 1951 as a result of the efforts of the predecessors of members opposite at the federal level, when Menzies attempted to ban the political activities of the Communist Party. That effort was struck down in the High Court and rejected by the people when it was put to a referendum. That will be the potential fate of the legislation with which we are dealing. Here's hoping! Mr Pandal moved an amendment to the Bill which perhaps may provide some prospect of a defence when the matter reaches the courts.

This is a very confusing aspect of the proposed legislative changes, since unions are community based organisations and are a vehicle by which community standards are maintained. The initial effort to specifically restrict the union's promotion of or opposition to a political party or candidate was an attempt to stifle political debate and any form of political opposition by unions. This specific provision would be in diabolical trouble in the courts. However, even with the lower House amendment - the Pandal amendment to which I referred - I am still convinced that these provisions may not yet be out of the woods. This Government does not seem to have any hesitation in exploring adventurous legislation, and then taking its chances in the High Court. The Government is not doing too well in the High Court, and I would not be surprised if this is another provision that will eventually bite the dust. The restrictions being placed on union expenditure are incongruous and inequitable when compared with the requirements of other community groups. The stifling of political debate in this manner is undemocratic.

I turn now to federal award coverage. The Labour Relations Legislation Amendment Bill contains extensive provisions that give the Minister the capacity to cancel the registration of any union that attempts to apply for federal award coverage. Failure to notify the state Industrial Relations Commission of any matter before the federal commission will result in significant fines for both the union and its members. Furthermore, in such a situation the rights of the union to represent its members will be cancelled and the Industrial Relations Commission may substitute another union. Neither union members nor the substitute union will have a say in the transfer of coverage. So much for this Bill being about increasing the democratic rights of workers! Where the commission's view is in conflict with that of the Minister, they may apply to the Supreme Court of Western Australia to force the commission to reconsider. When Hon Nick Griffiths is given the chance to develop that theme, he will subject that provision to detailed analysis. Even now, there might be a prospect of someone in the Government realising that the Government cannot go any further down this path; that it is abusing the judicial process in this State in a most offensive way. The proposed legislation amounts to unreasonable intervention in what should be the sole province of members of free associations. Furthermore, there are already sufficient statutory powers to guard against the abuse of jurisdictional coverage, thus leaving the proposed legislative amendments without justification.

The Bill also denies the people of Western Australia the right to freely choose who will represent them at the workplace. If employees have a dispute with an employer under a federal award and approach the Australian Industrial Relations Commission to help settle that dispute, their state union can be effectively disbanded and those members can be transferred to another organisation against their will and without their consent. That is an extraordinary provision. One need only turn to that provision to realise how savage a blow it is to the rights of ordinary working men and women to have their industrial organisations subjected to such savage treatment at the hands of a Statute.

Can members imagine the outcry if the Australian Securities Commission could sack the directors of a company, wind up the company, dissolve its assets and pass over its shareholders' rights to another company, because the first company tried to assert its shareholders' rights in some forum, to the displeasure of the Government of the day? That is exactly what this Government proposes for the union movement under the provisions of this Bill. If two civil servants were to limit counter service to the public during lunch time or if they decided not to carry out their duties during the remainder of the working day they would be deemed to be on strike under this Bill. All the penalties would be imposed on them and their organisation -

Hon B.K. Donaldson: They could hold a stop work meeting for four hours, at any one time.

Hon TOM STEPHENS: That is not a provision of this Bill. I will deal with the Bill, and I want to provide the reasons that this Bill should not be included in the business of this House tomorrow. We should simply reject the second reading of the Bill now and avoid the charade, because we cannot point to any redeemable features in this legislation.

Strikes are already illegal in this State, but just to make sure that employees know who is the boss the Bill will criminalise strikes by imposing lengthy and convoluted pre-strike ballot provisions on any employee who takes any form of action deemed to be strike action. That is another savage penalty. Individuals will face fines of \$1 000 and for every day that workers are on a so-called strike they will face a \$200 daily penalty. If crippling fines are not a sufficient deterrent, the Bill empowers the Supreme Court to issue injunctions against employees. If they do not obey the injunctions they will face unlimited imprisonment and fines for contempt of court. The effect of this legislation will be to turn the Supreme Court into the enforcer of a set of repressive laws to stifle freedom of association and the right for workers to effectively take industrial action in support of their claims or grievances.

The Bill makes amendments relating to unfair dismissal entitlements under both the Industrial Relations Act and the Workplace Agreements Act. The effect of those changes is to direct that the commission is not to make an order for compensation to be paid unless the employer has agreed to pay that compensation instead of reinstating or re-employing the claimant; to enable the employers to pay compensation by instalments; and to reverse the onus of proof so that it rests with the dismissed worker to prove unfair dismissal. The reverse onus of proof presented in the

proposed legislation places employees in the unenviable position of taking the employer to task. That is a reversal of the processes that have been available. Furthermore, the financial resources required to mount an action will place an individual at a distinct disadvantage against the corporate body. This will make it extremely difficult for an employee to mount a successful case of unfair dismissal. That is exactly what the Government has set out to do. It will achieve that end with these amendments.

Placing the Industrial Relations Commission in a situation where it cannot order compensation effectively frustrates the mutual conciliation process between employees and employers. This law of uncertainty does little to encourage the conciliation process, and ultimately it will prompt the resolution of the dispute through costly and lengthy civil actions, which are biased in favour of the employer.

I turn now to union dues. The existing Act provides that where a dispute occurs in regard to the implementation of an existing agreement between a union and an employer over the collection of union subscriptions the matter can be dealt with by the Industrial Relations Commission. The Bill proposes to delete any such matter. In addition, a change is made to stipulate that the collection of union dues is not an industrial matter for the purposes of the legislation. This is yet another attempt by the Government to reduce the resources available to unions, while overriding the local agreements of employees and government agencies with unions for the deduction of union dues. This is a short-sighted decision on the part of the Government which, by any analysis of the provisions in the Bill, will result only in further disputation. That is at direct odds with the stated objectives of the Government to enhance the powers of the Western Australian Industrial Relations Commission to act as the umpire in industrial disputes. Such a power left with the commission becomes an additional part of the armoury for dispute resolution.

If the Government genuinely wants the commission to be the umpire and to be part of the resolution of the difficulties by which the workplace can so easily be consumed, it is important to have flexible provisions available to the commission. The more the commission is constricted and contained so that it cannot do its job, the less prospect there is of anybody being able to solve the inevitable clashes that occur between employer and employee by the nature of the human condition.

The Act currently allows for the commission to permit a union representative to enter any premises that are the principal residence of the employer. It is now proposed that the commission be prohibited from allowing a union representative to enter any premises of an employer, unless the employer is the employer or former employer of a member of the organisation. This is the provision I dealt with in reference to the Minister's second reading speech. As I alluded to then, I knew the Minister's second reading speech did not adequately reflect the provisions of the Bill. Nonetheless, the provisions of the Bill will require existing members of unions to identify themselves to their employer in order to permit entry by their union representatives. Even if the union representative is able to enter an employee's workplace, the power of the union may be exercised only for the purpose of dealing with an industrial matter involving the member.

This provision will provide an opportunity for the regular abuse of the union official by frustrating the legitimate activities of the union movement to protect the rights of the workers of Western Australia. The capacity to enter workplaces offers the union an opportunity for the recruitment of members. It is also the vehicle by which community standards are maintained. Unions cannot best represent their membership without access to members' places of employment. The intent of such legislation is to undermine the work of unions by restricting union recruitment strategies through limiting union access to members and through the intimidation of union members via lax privacy provisions.

That is not a bad place at which to draw upon a contribution that one of my future colleagues and a future member of this House would have made in this debate if the House had the good sense to postpone the legislation until after 22 May. I refer to my new colleague Ljiljanna Ravlich, the MLC-elect for East Metropolitan Region, who has been denied the opportunity of participating in this debate. She is one of my colleagues who is extremely frustrated about her inability to participate in this debate. She would have loved the opportunity to do just that. She comes equipped with life experience as well as professional experience that would have made her contribution to this debate extremely worthwhile. I do not know whether I have described to the House the results of that frustration on my future colleague. Ljiljanna Ravlich is an artist. She has produced a painting entitled "The Third Wave" that she has lent to my office for the duration of the debate. With the sense of frustration she feels at not being able to participate in the opposition to this legislation, she has produced a magnificent painting. It is the artistic expression of the sentiments of this future member. She shows on the beautiful canvass that now graces my office wall the sense of order that exists currently in the industrial context, with the prospect of anarchy and chaos as a result of this misguided legislation. The letter from my colleague states -

It was only last year that I attended the funeral of the late Mark Allen, a former organiser of the Western Australian Builders' Labourers Painters and Plasterers Union of Workers . . . A young man taken in his prime during the course of trying to protect the working conditions of others.

As you may remember, in his capacity as WABLPPU Organiser, Mark entered a East Perth demolition site only to find that there were major breaches of Occupational Health and Safety.

In the course of warning workers of the dangers on that worksite he fell through asbestos sheeting to his death. It was a tragedy waiting to happen because had it not been him it would more than likely have been a worker.

Hundreds of workers are at risk every day at their work place. The right of union officials like the late Mark Allen to enter sites has possibly saved hundreds of lives. Unfortunately under this legislation this will no longer be the case.

I remember the anger of construction workers across the State last year at the loss of a son.

Under this legislation we can expect more sons to be lost because it denies unions a right of entry to investigate breaches of Occupational Health and Safety particularly at a time when resources to this area have been drastically cut.

Under this legislation the value of a worker's life will become very cheap because employers' rights and profits will drive the agenda.

It will more than any other single piece of legislation reduce the rights and working conditions of Western Australian workers.

It will leave the most vulnerable workers in the community at greatest risk because they have far fewer resources with which to protect themselves.

She then adds a personal note to this letter -

As the first Croatian born woman elected to the Western Australian parliament I am particularly concerned about the impact of this legislation on workers from non English speaking backgrounds.

This group often has little if any negotiating power and is most often exploited in the workforce. Without union protection their plight is destined to deteriorate.

Migrant workers with little or no command of English are less likely to be aware of their entitlements; to negotiate a good employment contract or to seek special conditions.

They are likely to have no choice but to accept whatever work is available regardless of conditions so long as it provides them with a start in a new country.

An unfortunate consequence of this ill conceived legislation is that it will most adversely impact on the most vulnerable.

This group is often most in need of union representation and yet under this legislation if migrant workers do have a problem that they bring to the attention of a union, resulting in a union official visit on site, it may place their job at risk.

These issues are of grave concern to me and to many of my constituents in the East Metropolitan Region.

The people with whom I have consulted are of the strong view that this legislation should have been deferred until such time as members elected to the Legislative Council take their position on the 22 May 1997.

I did not have a chance to quote at length her viewpoint when I participated in debate on another topic. However, now I have the opportunity to deal just with right of entry. Our future colleague describes the situation of tragedy in the workplace that could have been avoided, but regrettably was not because of the unsafe working conditions into which the union official walked. She makes the point that that is the sort of location into which union officials need to have access, not so that they fall to their death as they did in this circumstance, but to ensure workers have a chance of those sites being checked in the absence of the appropriate occupational health and safety officials highlighting the risks to employees of unsafe working places.

Hon Mark Nevill: And mines inspectors.

Hon TOM STEPHENS: Yes. With the Government cutting back its efforts in and resources for these areas, union officials need access to work sites to assist in the protection of workers. This legislation will limit those opportunities for union officials to have a presence on the premises of employers.

Ljiljanna continues -

The forcing of this legislation through the Legislative Council is in our opinion a deliberate act by a desperate government to force their ideological will on tens of thousands of honest hard working men and women in this state.

Just when Western Australian workers thought it couldn't get worse this government has without a mandate introduced this draconian legislation that the good working people of this state must now live with, legislation born without consultation, by stealth and one that will haunt this government to its demise.

How ironic that I an elected member of this Parliament will be prevented from voting on this legislation while Senator-elect, the Hon Ross Lightfoot is artificially kept in the Chamber -

At this moment slumbering while the debate continues -

- to maintain the government's numbers.

Hon N.D. Griffiths: Whether they are asleep or awake they are still mindless.

Hon TOM STEPHENS: There are members of the Government who know the folly of this legislation, but they cower before the more extreme elements of the Liberal Party. She continues -

Unfortunately for all Western Australians I believe that the Government's determination to finalise the passage of the *Labour Relations Legislation Amendment Bill 1997*, which in a most destructive way targets union members, and the Government's political opponents, has at this time more to do with the internal politics of the State Liberal Party than it has with this State's industrial relations agenda.

That seemed to be an appropriate point to at least introduce her conclusions. I will deal later with her introductory remarks.

Hon B.K. Donaldson: As you are covering a wide range of material, will you give us a summary at the end?

Hon TOM STEPHENS: I will recap at the end.

Hon N.D. Griffiths: Are those two things you are holding up the Liberal Party horns?

Hon TOM STEPHENS: If, however, Hon Bruce Donaldson feels at any point along the way that the Bill should be withdrawn and a few colleagues want to go home we would be prepared to put it to a division and get it off the agenda quickly.

Hon Mark Nevill: Which Bill do you want to send to the Legislation Committee - the IR or the Kingstream Bill?

Hon N.D. Griffiths: What about the bank Bill?

The DEPUTY PRESIDENT: Order! Hon Mark Nevill will come to order.

Hon TOM STEPHENS: There are good reasons why this Bill should be dropped off the agenda, many of which I have given. Some have been dealt with by interjection across the House. The House should know that they are the issues that may bear consequences from the Government's actions. We will not forget what members opposite are doing in this process. With Bills like the banking and Kingstream Bills they need to know that from now on -

Hon N.D. Griffiths: A few other Bills will give Max's mates a rough trip.

Hon B.K. Donaldson: Is that a promise or a threat?

Hon TOM STEPHENS: It is a promise. For every action there is an equal and opposite reaction.

Hon N.D. Griffiths: There will be a greater reaction.

Hon B.K. Donaldson interjected.

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! Hon Bruce Donaldson will remain silent and listen to Hon Tom Stephens.

Hon TOM STEPHENS: If members opposite press on with this legislation, consequences will flow from that.

While the capacity to enter workplaces offers the union an opportunity for recruitment of members, as I was describing earlier, it is also the vehicle by which community standards are maintained. These provisions impact most severely on those with the least bargaining power in our community: Women, on whom Hon Cheryl Davenport will later focus, young people, migrants and Aboriginal people. That section of our community especially will be

disadvantaged by the provisions in this Bill. I can never consider any legislation that comes through this House without being conscious of the needs of that section of my own electorate. Their needs are acute for them and pressing on us in the wider community. In recent years the union movement has been a source of some help to that community. In earlier years it was a source of some damned nuisance to them. After the late 1960s the union movement was able to offer support to that section of the Western Australian population. That prospect is now diminished. In a range of circumstances the provisions of this Bill will cut off those communities from easy access to the support they so desperately need. When we think of an employer's premises we do not often think of a large pastoral station and its Aboriginal workers. However, the union movement's access to those premises is now to be limited.

Hon N.D. Griffiths: It is one of the reasons the Government is bringing this in.

Hon TOM STEPHENS: One boundary with which I am familiar is 100 kilometres from the north of the property to the south; yet a union official will not be able to gain proximity to any side to help an Aboriginal employee on a station.

Hon N.D. Griffiths: That was intended by the legislation.

Hon TOM STEPHENS: The legislation turns an already complex legislative scheme into an even more complicated and confusing scheme. The winners will not be workers or employers, but the lawyers who will be needed to untangle the legislative and constitutional mess this Government wishes to create in this State. This is a familiar tune. We have seen this before with legislation rushed through this place in the dead of night and subjected to the guillotine. The lawyers grow rich as a result of faulty legislative ventures such as this.

This is but a brief sketch of the more offensive provisions of the Bill. We will hear more about them as various members develop themes and the implications for the rights of ordinary Western Australians to a fair industrial relations system. We will draw on a range of authorities in support of our case against the Bill. These authorities are not hard to find because the Bill offends even against many of the principles expounded in the recent legislation introduced by the Government's federal colleagues, quite the contrary to the claims in the Minister's introductory speech. The federal legislation substantially weakened employees' bargaining power. However, enough remains to provide some basic protections to the public. While the current federal coalition Government's industrial relations policies are an inadequate benchmark against which to measure this Bill, we can readily compare it with the industrial relations regimes in other advanced economies. That comparison shows that this legislation utterly fails to maintain accepted international standards.

A more illuminating comparison is that between Western Australia and the industrial relations regimes of some of this State's nearest neighbours in Asia, none of which is renowned for its adherence to employees' rights and whose legislation reflects the authoritarian nature of the Government. Ironically, in one of those neighbouring countries, from where one might be forgiven for thinking the Government has adopted many of the provisions of this Bill, the penalties for noncompliance are considerably less severe than those proposed in this State. One explanation for that may be that that country has internal security legislation which enables its government Ministers to lock up its opponents without trial for extended periods! At least the State Government leaves that decision to the Supreme Court which will now have to do the Government's dirty work and imprison those who assert their rights in the workplace.

It is particularly distressing to note that this Bill attempts to emulate legislative and administrative sanctions on unions and employees which apply in many nations which are just emerging from periods of authoritarian rule. A case in point is South Africa, a country which was much admired by some members of the State Liberal Party in the 1970s and 1980s. It must be noted that that view was not shared by former Prime Minister Fraser who, in many ways, redeemed his party's reputation by his strong opposition to apartheid. I will illustrate that the provisions of this Bill are deliberately designed to achieve the same results as did the Liberal Party's South African counterparts when that country's legislation was enacted at the height of the apartheid regime in 1956.

Ironically, as quickly as the new South Africa has discarded the legislative vestiges of the apartheid regime, this Government has embraced and revived them in this Bill. It is an appalling reflection on this Government and this Parliament that it is seeking to effectively re-enact the provisions of the 1956 legislation which the National Party of South Africa used to suppress trade unions and inhibit its political opponents. The similarities between this Bill and that of the apartheid regime is quite remarkable. I refer members to the definition of "strike" in clause 35(b) of the Bill which reads -

"strike" means any action by 2 or more employees, or by an organization of employees, that involves a stoppage of, or ban or limitation on, the performance of work required under an employee's contract of employment.

The definition of "strike" in section 1, paragraph 36 of the South African Industrial Conciliation Act, 1956 reads -

"strike" means any one or more of the following acts or omissions by any body or number of persons who are or have been employed either by the same or by different employers:

- (a) the refusal or failure by them to continue work (whether the discontinuance is complete or partial) or to resume their work or to accept re-employment or comply with the terms and conditions applicable to them, or the retardation of the progress of work, or the obstruction by them of work; or
- (b) the breach or termination by them of their contracts of employment.

The provision goes on to link the conduct described to industrial demands made on employers. Like the provision in this Bill, the apartheid regime legislation is broad and sweeping and is designed to catch, restrict or ban all forms of industrial action. It is regrettable that this State's legislative provisions are cast in similar terms to legislation enacted in a country as repressive as South Africa.

I am reminded of the labour law regime that operated in this State from the middle of the last century through to well into the late 1960s in the pastoral areas of the State with regard to Aboriginal people, about whom I was speaking earlier. If Aboriginal people tried to withdraw their labour or strike from their employment on the pastoral leases that covered their tribal lands, they were outlaws for doing so and were hounded by the law back into restoring their labour to their pastoral masters. That is the way the Aboriginal people were forced into work and prevented from withdrawing their labour from the station masters. If they dared to leave their employ they were forcibly returned by the law.

Let us compare the provisions of clause 13 which defines political expenditure. Proposed subsection 14(2) reads -

- (2) Political expenditure is -
 - (a) making a payment to a political party (whether by way of a membership subscription or affiliation fee or in any other manner);
 - (b) making a payment to an election candidate or a group of election candidates;
 - (c) paying expenses directly or indirectly incurred by a political party;
 - (d) paying expenses directly or indirectly incurred in connection with a parliamentary election by an election candidate or a group of election candidates; or
 - (e) making a payment to a person on the understanding that that person or another person will directly or indirectly apply the whole or a part of the payment in a way mentioned in paragraph (a), (b), (c) or (d).

I refer members to section 8(6) of the apartheid regime's Industrial Conciliation Act of 1956. It reads -

- 8 (6) (c) no union . . . shall affiliate with any political party or if so affiliated at the commencement of this Act, shall continue to be so affiliated for a period exceeding six months from the date of such commencement;
- 8 (c) (d) no union . . . shall grant financial assistance to or incur expenditure with the object of assisting any political party or any candidate for election to Parliament or to any provincial council or local authority.

The reasons this legislation was enacted in apartheid South Africa are similar to the motives of this Government in promoting its Bill. I ask members to consider the features of these two Governments and I will suggest why they were both attracted to this sort of legislation. Firstly, both Governments arrogantly basked in the knowledge that there was no effective way that those who opposed their legislation or policies could prevent, let alone scrutinise, that legislation. In South Africa the whites only Parliament was dominated by one party with no effective House of Review. It should be noted that 80 per cent of the people of South Africa were effectively disfranchised at the time those laws were enacted. In Western Australia the Government has done all it can to prevent the disfranchised voters of December 1996 having their choice and wishes expressed on this Bill in this House. Members are painfully aware that in the dying days of the Bill before this House the Government will proceed with the legislation to ensure that it does not receive the scrutiny it would otherwise have got if the legislation had been delayed. The scrutiny would have led to the Bill's being amended.

Secondly, both Governments are intolerant of dissent and are enthusiastic in their attempts to restrict the activities of other organisations or centres of political and industrial power. In 1956 the apartheid regime had consolidated

its hold on power, divided the people into categories of white, black, native and coloured, and assigned them their roles and locations in the apartheid state.

The labour movement, although predominantly white, was still a threat. It stood for collective action, freedom of association and freedom of speech and was not universally a supporter of the National Party. To minimise the impact of unions and other political parties, it was necessary to inhibit their capacity to contribute to or support parties or candidates opposed to the governing party. Thus, there was emerging in South Africa in 1956 and in Western Australia in 1997, similar provisions designed to achieve the same political goals.

The South African legislation is instructive for other reasons as well. To assist this House I have taken the opportunity to seek the opinion of an eminent South African expert in the field of industrial law. I refer to Professor Clive Thompson of the Institute of Development and Labour Law at the University of Capetown. He is one of the pre-eminent industrial relations practitioners in South Africa. He was one of a core of labour lawyers who, through their advocacy and expertise, influenced the development of labour law in the 1980s, in the twilight of the apartheid regime. He is an attorney of the Supreme Court of South Africa, an accredited mediator and arbitrator of the Independent Mediation Service of South Africa and senior commissioner of the Commission for Conciliation, Mediation and Arbitration of South Africa. Professor Thompson is acutely aware of the significance of international labour standards to domestic law. The apartheid regime utterly ignored these standards in its treatment of workers in South Africa, while the new South Africa has enshrined these standards not only in its new labour relations legislation, but also the Republic's Constitution.

Professor Thompson is also familiar with the Australian industrial relations regime, having spent some time in this country studying our conciliation and arbitration system. Indeed, the new South Africa has, as I have previously mentioned, adopted many of the provisions of our laws as they stood before conservative Governments began systematically destroying our industrial relations system and laws. Professor Thompson has prepared a memorandum in which he focuses on the pre-strike provisions of the Bill. It has been interesting to make the Bill available to people around the globe and to see the comment returned. I am ably assisted in my office by my friends and colleagues, one of whom is Peter McKerrow, a solicitor I have previously mentioned to the House. He is a senior officer who runs the office for the Opposition in the upper House. He is next on the ticket, so if I drop dead he will be the new member for the Mining and Pastoral Region. He vigorously utilised the Internet and despatched the Bill, the second reading speech and the related Act and made it available for comment on the Internet to a range of people throughout the globe. The observations coming in have been interesting as the news of the legislation has been spread through the Internet. This process has been made much easier as a result of technology, and the Opposition has received much commentary. The technology available to the Opposition is not all that sophisticated.

We have had the advantage of a commentary from Professor Thompson, who said -

Bargaining (and negotiating) systems at any level depend on a fine if dynamic balance of forces. Even within the context of Australia's arbitral framework, the celebrated statement that "collective bargaining without the right to strike is collective begging" is a truism. There can be no good faith or even functional bargaining if the employer's reserved right to implement unilaterally its workplace proposals is not counterbalanced by an effective right to strike. It is the strike capacity rather than actual recourse that is integral to a bargaining system. From an international law perspective, "the right to strike is an intrinsic corollary of the right of association".

We know that proposed section 79 of the Bill restates the legal position in Western Australia where any strike as liberally defined by this Bill can expose participants to crippling civil liabilities. However, the pre-strike ballot provisions add new penalties and restrictions to workers and their unions. Professor Thompson described this provision in the following terms -

Against this background, the Bill's failure to provide for a protected right to strike - protection against dismissal, protection against penalties and protection against civil liabilities - is both lamentable and dysfunctional. If due recognition is not given to the role of strikes, there is no inducement for labour to bargain in good faith or to exhaust bargaining and conciliation machinery.

Professor Thompson went on to say -

It is, I believe instructive to compare labour law developments in WA with those of South Africa. South Africa has emerged from a long night of repressive rule, and democratic standards - now captured in a Bill of Rights - serve as a very explicit benchmark in the assessment of the old law and the crafting of the new.

In Professor Thompson's comment on the pre-strike balloting provisions he quotes an extract from the ILO publication, "Freedom of Association and Collective Bargaining", published in 1995 which, by way of introduction, states "that provisions which require worker organisations to observe certain procedural rules before launching a

strike are admissible, provided they do not make the exercise of the right to strike impossible or very difficult in practice which would result in a very wide restriction of this right in fact". He goes on to say -

A general comment is called for at the outset in respect of Part VIB of the Bill. If it becomes law, it will undoubtedly be the most verbose piece of legislative regulation of pre-strike ballots produced by a society proclaiming to be democratic. Certainly I have not seen the likes of it before, in terms of both length and complexity.

Apartheid South Africa required pre-strike ballots, but contented itself with a single and simple subparagraph; the Bill's efforts run to some twenty perplexing pages. By that token alone, it robs labour of any meaningful right to strike and falls foul of international labour standards.

The Bill's governing provision represents an extraordinary invasion of both an employee's freedom of association and the autonomy of labour bodies.

I highlight some offending elements in addition to the criticism already offered. Firstly, the majority of persons entitled to vote must vote, as outlined in proposed section 97B(3). The normal democratic standard is, as we know, the majority of votes cast on the day, not the majority of potential votes as included in the Bill. That standard applies equally in the political and industrial context. The supervisory bodies of the ILO correctly point out that a provision requiring the agreement of an absolute majority of the workers of an undertaking concerned about the calling of a strike may constitute a serious limitation on the activities of trade union organisations.

Members may remember that it was the ILO to which Minister Kierath said he was prepared to have the legislation sent for adjudication. No sooner had it become clear that the international body was likely to adjudicate by giving it the thumbs down than the Premier reversed the assurance about adjudication. Therefore, any concern the ILO might have had about the provision requiring absolute majority of potential voters will no longer be allowed by the Government to be sufficient justification for not proceeding with that part of the Bill.

Proposed section 97D(2) of the Bill provides that parties other than the union concerned may call for a ballot. Even if one accepts the legitimacy of a pre-strike ballot, the licence extended to trigger the process constitutes an extraordinary interference with union autonomy. Among other things, it offends article 3 of ILO convention 87 on freedom of association, and article 2 of ILO convention 98 on the right to organise and to bargain collectively. Proposed section 97D outlines that a ballot cannot simply be called by a union, but requires a preliminary application to the commission. Another extraordinary incursion into union autonomy, particularly when assessed in this light, is the commission's further discretionary powers in regard to the ballot process. This formulation is an invitation to protracted litigation and for all practical purposes represents a bar on the freedom to withdraw labour in defence of employee interest.

Proposed section 97G(9)(a) of the Bill outlines that balloting lists must be prepared. This is another prerequisite calculated to extinguish labour's capacity to mobilise at all.

Section 97I represents the heart of the legislation. In jurisdictions all over the world the labour injunction has featured as a blunt and controversial instrument. Its purpose and effect have been to choke off labour action, whether justified or not given the reach of part VI B, the scope for injunctions will be enormous. Interdicts or injunctions against strike action were used so indiscriminately by employers in South Africa in respect of pre-strike ballots that they discredited the pre-strike ballot procedure in its entirety, as all students of the industrial processes in the other countries will know. The committee which drafted the democratic South Africa labour reforms had the following to say -

Balloting has been removed as a statutory requirement for a protected strike. Ballots provide fertile soil for employers to interdict strikes and to justify the dismissal of strikers in strikes that are technically irregular but otherwise functional to collective bargaining. This has been a recurring feature of South African industrial relations and has prevented the proper conclusion of collective bargaining processes.

My overall sense is that the Legislature's contemplated provisions on pre-strike ballots will not only unfairly undermine labour's interest, but will also jeopardise the emergence of a more responsive and responsible industrial relations system.

In relation to the pre-strike ballot provisions I also refer the House to an article by Mr Carl Mischke in volume 1, No 2 of the "Quarterly Law Review". Mr Mischke is a leading labour lawyer in South Africa. In this article he considered the provisions on pre-strike ballots under the apartheid era legislation, which are remarkably similar to those proposed in this Bill. On the effect of any irregularities in a pre-strike ballot, Mr Mischke wrote -

An irregular ballot is not a mere technicality that is forgotten the next day. In the first instance, section 65(3) of the Labour Relations Act makes contravention of section 65(2) a criminal offence.

Of course, criminal offences are an integral part of this Bill. The article continues -

Therefore if a trade union either holds no ballot at all or holds a ballot that is seriously irregular, it commits a criminal offence. Secondly, the strike that follows an irregular ballot is itself illegal. That means that the trade union loses all protection offered by section 79 of the Labour Relations Act.

There is absolutely no protection for industrial action in this State under any circumstances. Mr Mischke continues -

. . . the employer may dismiss the striking employees and, as the employees are participating in an illegal strike, the industrial court may find the dismissal of the strikers was fair.

Finally, Mr Mischke notes -

Also, an employer who faces an illegal strike may apply for an interdict in an attempt to prevent the illegal strike.

The few paragraphs I have read out from this article are evocative of what is in this Bill. It could almost be an exact description of the legal situation in this State; yet I have described the system applying under what most of us will agree was a repressive dictatorship. What a disgrace that this House is virtually adopting legislation on the Statute books of a fascist regime.

I will now deal with the history of the development of industrial relations law in Western Australia. The focus of so much of this legislation is on the trade union movement. It appears to arouse fear and loathing in the Government. It is clear that many opposite have little idea of the origins or purposes of trade unions in our culture or our economy. For those reasons, a history lesson is very important for them. I place on the record that we have some lessons upon which we can draw to ensure that people do not repeat the mistakes of history, and that the trade union movement is well and truly understood. Any examination of the origins of trade unions and how and why they survived in a hostile political and legal regime is a valuable lesson for all in this Parliament. Regrettably it seems our political opponents very often look at history and come up with the worst aspects of the experience of our predecessors around the globe and then enshrine those mistakes in legislation. I propose to illustrate how the methods of those in authority, which have been used to suppress working people and the unions, have remained startlingly similar over the centuries. Common law and later statute law have always been substantial weapons in the hands of authority.

Government intervention in labour relations is not new. For example, following the great loss of life caused by the Black Death during 1348 to 1350 there was a widespread shortage of labour in England, with sharp increases in the cost of foodstuffs, following rises in wages. In 1351 the Statute of Labourers was passed, making it obligatory for able bodied men to serve those employers who wanted them, with disobedience punished by fines or imprisonment. Wages were pegged at pre-plague levels, and it was not permitted to offer or accept higher wages. Fines were imposed on "unions" designed to keep wage levels up. The justices of the peace, who policed the Statute, were also required to control prices.

That happened in 1351. I am talking about the early labour laws that come from the English speaking world. Already a few men and women were combining to improve the conditions of life. The criminal law was brought in to reinforce the power of the master, in the same way as it is proposed to be 650 years later. During the time of Elizabeth I the enclosure of the commons and the dissolution of the monasteries resulted in a severe unemployment problem. The Statute of Artificers was passed in 1563, requiring masters not to dismiss servants without cause being determined by two justices of the peace. Conversely, servants were not to leave their employment. Apprenticeships of seven years' duration were laid down to check the movement of apprentices between employers. Justices of the peace were to determine the wages of artificers and other workmen at an annual general session, after hearing evidence from such discreet and grave persons of the said county, and conferring together about the plenty or scarcity of the time and other circumstances necessary to be considered.

During this early period, the seed of the trade union was present but its repression was severe. Action was taken against a combination of workmen in the unions. There was a civil action in a case for conspiracy to injure. It was designed, as Coke L.J. said, to punish "false conspiracy", although no execution of the plan took place. Though criminal in character, it was a private court action and taken on private initiative. By the seventeenth century it was only necessary that a number of persons combined to injure with a possibility of resultant damage - for example, from withholding their labour or demanding higher wages - for there to be grounds for civil action..

It was during this century that the idea was developed that conspiracy to commit a crime was extended to cover proposed acts, not unlawful if one person did them, but unlawful if a group combined to do them. Anyone who is familiar with recent history will understand where this point goes because it begins to go quite close to the bone. In 1721, the journeymen tailors of Cambridge were prosecuted for combining to raise wages. It would have been lawful

for one person to demand an increase, but not two or three. Lord Mansfield found that the "legal combination is the thing".

During the early nineteenth century, fear of the ideas current from French and American revolutionary publicists disturbed the establishment into a series of Acts prohibiting trade combinations. It was equally realised that it was desirable to settle grievances quickly. The Combination Act 1799 was directed to preventing unlawful combinations of workers. These are the famous combination Acts that were the source of the disquiet of the work forces of Great Britain. The Act of 1800 was designed to make unlawful all contracts between journeymen and manufacturers concerning wages, hours and restrictive trade practices. The legislation also provided a cheap and speedy method of settling disputes by arbitration. If the arbitrators could not decide the matter within three days, the matter of dispute was to go before the justice of the peace, whose decision would be final. Failure to make the submission to arbitration or obey the award was punishable by fine or imprisonment.

At about that time Jeremy Bentham impacted on the processes that were being unleashed in Great Britain.

Hon B.K. Donaldson: Was this 1066?

Hon TOM STEPHENS: No. This was much later.

Hon Peter Foss: He is in mummified form in the entrance to the University of London.

Hon TOM STEPHENS: I did not know that. However, I have always found his philosophy particularly attractive. It has had and should have a significant impact on legislators.

Hon N.D. Griffiths: It has had, but I did not realise you were a Benthamite.

Hon TOM STEPHENS: I think Benthamism is a tradition that is connected to some of the great philosophical traditions of mankind. I know the member will develop the epicurean side of the Benthamism tradition. However, I am referring to the pursuit of pleasure for the common good and the maximum pleasure for the maximum number of people.

Hon Peter Foss: The greatest good for the greatest number.

Hon TOM STEPHENS: That is right. It was encapsulated in a number of writings of Jeremy Bentham and found expression in various forms of human endeavour. In the various ways it was expressed, it aimed at ensuring that whatever was done, maximised the benefit for the maximum number of people. That influence came to bear upon the circumstances of the labour laws and all of the laws of Great Britain at that time. It discouraged the continuance of governmental intervention by encouraging the view that capital and labour should be free to combine and reach decisions freely as long as the decisions did not affect others.

[Leave granted for speech to be continued when the order of the day is first resumed on the next day's sitting.]

Debate thus adjourned.

House adjourned at 2.26 am (Thursday).

QUESTIONS ON NOTICE

ROAD SAFETY - AUDITOR GENERAL'S REPORT

Speed Cameras - Rural Areas

116. Hon N.D. GRIFFITHS to the Attorney General representing the Minister for Police:

- (1) Is the Minister for Police aware of the Auditor General's report on road safety in which he notes over 50 per cent of road fatalities occur in rural areas and that speed cameras are rarely used in these areas?
- (2) Does the failure to use speed cameras in these areas undermine efforts to reduce road fatalities?
- (3) In the light of the number of road fatalities in these areas, why are speed cameras not more widely used?
- (4) What is the estimated saving in police time and resources which would be achieved by using speed cameras in these areas?
- (5) What is the Government doing to reduce the number of road fatalities in these areas?

Hon PETER FOSS replied:

- (1) Yes.
- (2)-(3) No. The Commissioner of Police advises that speed cameras are deployed in rural areas, however, such deployment is subject to much more diverse influencing factors than in high density traffic areas experienced in the Perth metropolitan or built up areas. Further, speed cameras are more particularly designed for high density traffic areas than open rural areas with sparse traffic.
- (4) Nil. No savings in police time or resources would be achieved. On the contrary, operation of speed cameras in rural areas is at far greater cost.
- (5) The state Traffic Coordination Unit is currently liaising with the various government/non- government agencies and is analysing causal factors of crashes. This information is passed to the respective district officers for their localised response.

ROADS - SAFETY

Speed Cameras - Operating Hours

119. Hon N.D. GRIFFITHS to the Attorney General representing the Minister for Police:

The Auditor General's report on road safety shows that in trials of speed cameras outside normal operating hours that over 50 per cent of vehicles were found speeding compared to 38 per cent during normal hours -

- (1) Does the Government acknowledge that failure to spread the use of speed cameras outside normal operating hours undermines the strategy to reduce road fatalities?
- (2) Why has the Government failed to use speed cameras outside normal operating hours if it knows that more drivers speed outside these hours?
- (3) What does the Government propose to do to reduce the number of vehicles speeding outside normal operating hours?

Hon PETER FOSS replied:

- (1) No. Speed cameras are not the only method of speed detection utilised to correct driver behaviour. The Western Australia Police Service utilised strategies of enforcement Statewide on a 24-hour basis including the period of the day where speed cameras are not used including targeted campaigns against non-use of seat belts, speeding and drink drivers. These alternative strategies include - patrol vehicles, mobile radar detectors, and stationary manned radar points.

- (2) The cost and impact on resources does not permit deployment of speed cameras at times of significantly diminished risk. While statistically a higher percentage of vehicles can travel in excess of the speed limit outside so called 'normal operating hours', the conflict or risk factors are greatly reduced and the benefit to the community is very disproportionate if speed detection operations were equally applied across 24 hours of the day.
- (3) A review is currently being conducted into the operation of the Traffic Camera Section, including the possible use of static cameras placed at strategic locations 24 hours per day. These will function in conjunction with normal traffic patrol operations.

LAND - REGIONAL PARKS

Establishment

161. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:
- (1) Is the Minister for the Environment aware that the State Government promised, prior to the 1993 state election, to establish a series of regional parks in the metropolitan area?
 - (2) If yes, has this been done?
 - (3) Why has the Jandakot Botanical Park not been established?
 - (4) When will the Jandakot Botanical Park be established?
 - (5) Why has the Peel Regional Park not been established?
 - (6) When will the Peel Regional Park be established?
 - (7) Why has the Beeliar Regional Park not been established?
 - (8) When will the Beeliar Regional Park be established?
 - (9) Is the Minister aware that the Ministry for Planning was required by the Environmental Protection Authority to prepare a land use management plan for the Port Kennedy and Rockingham Lakes Regional Park by June 30, 1996?
 - (10) If yes, has this been done?
 - (11) Does the Minister intend to take action to enforce compliance with this condition?
 - (12) If no, why not?

Hon MAX EVANS replied:

- (1) The coalition policy on the environment released on 13 January 1993 indicated a coalition Government would look to develop a system of regional parks.
- (2) All regional parks except Peel have been reserved in the metropolitan region scheme. Formal declaration and vesting in the National Parks and Nature Conservation Authority will occur when the necessary amendments to the CALM Act to create a reserve type known as regional park, are complete.
- (3)-(4) The Jandakot Botanical Park has been reserved in the metropolitan region scheme and will be established following amendments to the CALM Act.
- (5)-(6) The Peel Regional Park lies outside the boundaries of the metropolitan region scheme, however it is shown in the Inner Peel Structure Plan which is in the process of being made into a regional planning scheme. The park will be established following statutory approval of the planning scheme and amendments to the CALM Act.
- (7)-(8) The Beeliar Regional Park has been reserved in the Metropolitan Region Scheme and will be established following amendments to the CALM Act.
- (9) Yes.
- (10) I understand a report has been completed and referred to the Environmental Protection Authority, City of Rockingham and the National Parks and Nature Conservation Authority for comment.
- (11)-(12) Not applicable.

POLICE - SPEED CAMERAS

Corporate Infringements - Cancellation

175. Hon N.D. GRIFFITHS to the Attorney General representing the Minister for Police:

- (1) Is the Minister for Police aware of the high rate of cancellation relating to corporate speed camera infringements?
- (2) Is the Minister aware that some corporations have had 80 per cent or more of their infringement notices cancelled?
- (3) Could the Minister list those corporations which have had 50 per cent or more of their infringement notices cancelled?

Hon PETER FOSS replied:

- (1)-(2) Yes.
- (3) No. Due to a variety of reasons or factors, many legitimate reasons that influence the cancellation of infringement notices, particularly where such are beyond the capability of a number of corporations, it is considered unfair and inequitable to release such information. I am unwilling to direct the resources required to carry out the examination of manual records to identify the difference between legitimate and other reasons for cancellation.

NULLARBOR NATIONAL PARK - WOMBATS

Protection from Dogs

200. Hon MARK NEVILL to the Minister for Finance representing the Minister for the Environment:

- (1) What work is CALM undertaking to protect the wombat populations north of Eucla from the marauding dogs in the Nullarbor National Park to South Australia?
- (2) Is CALM aware that the build up of dog populations within the Nullarbor National Park on the South Australian border has almost wiped out the entire population of hairy nosed wombats?

Hon MAX EVANS replied:

- (1) Western Australia has small populations of southern hairy nosed wombats in the far south east of the State. The species is not considered to be threatened with extinction but is protected fauna in this State. Western Australia has a long history of wild dog and dingo control in pastoral areas, including the vicinity of the wombat populations. These control programs are likely to have assisted wombats.
- (2) CALM is not aware of reports suggesting significant impacts from dogs on hairy nosed wombats in South Australia. CALM has contacted the South Australian National Parks and Wildlife Service, managers of the Nullarbor National Park, which has advised that they are not aware of any major threats to wombats from wild dogs or dingos. If the member has specific concerns which he can bring to my attention I am prepared to have them investigated.

HUNTER, MR NEIL - BRENNAN CASE

Warrants

214. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

In respect of the Brennan stolen cars/drugs case -

- (1) What bench warrants were received from Queensland for the arrest of Mr Neil Hunter following inquiries by the Criminal Justice Commission in that State?
- (2) For what reasons were they issued?
- (3) On what dates were they received?
- (4) When was each of the warrants in (1) voided?
- (5) What involvement did Detective Senior Sergeant I. Brandis have in the service and processing of each warrant?

(6) In whose possession were the warrants after their arrival in Western Australia?

Hon PETER FOSS replied:

The Commissioner of Police has provided the following advice -

- (1)-(4) Warrants issued by the Criminal Justice Commission in Queensland are not forwarded interstate and remain in the possession of the police officer conducting extradition proceedings.
- (5) Inspector Ian Brandis is listed as the arresting officer of Mr Hunter on 24 January 1990 by way of a Provisional Warrant issued in Western Australia at the request of the Criminal Justice Commission in Queensland.
- (6) Warrants issued by the Criminal Justice Commission in Queensland remain in the possession of its representative.

RESERVES - LAND EXCHANGE

Nelson Location 12897

219. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

In relation to the Reserves Bill 1995, Clause 10 and the Reserves Bill 1996, Part 2, Section 10 -

- (1) Does the Government consider that the area owned by Cable Sands and subject to a landswap deal, Nelson Location 12897, to be of equal or better conservation value to the 368.0615 hectares of land that was excised from the area of D'Entrecasteaux National Park as part of the landswap deal?
- (2) If yes, on what and whose advice was this assessment based?

Hon MAX EVANS replied:

- (1) Yes.
- (2) Consultants reports were available and the Department of Conservation and Land Management and the National Parks and Nature conservation authority were consulted. The NPNCA noted that the proposal has definite advantages for the longer term protection of Lake Jasper and its immediate surrounds.

FORESTS AND FORESTRY - JARRAH

Sale to Simcoa

230. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

Further to question on notice 311 of 27 June 1996 -

- (1) For the financial years 1993/94, 1994/95 and 1995/96 -
 - (a) how much of the wood sold to Simcoa by Conservation and Land Management was old-growth jarrah (ie. from trees already growing before logging began in the jarrah forest)?
 - (b) what was the base royalty paid by Simcoa to CALM for -
 - (i) green jarrah; and
 - (ii) dry jarrah; and
 - (c) what was the gross royalty paid by Simcoa to CALM for -
 - (i) green jarrah; and
 - (ii) dry jarrah?
- (2) For the financial year 1995/96 -
 - (a) how many tonnes of -
 - (i) green jarrah; and
 - (ii) dry jarrah,
 did CALM sell to Simcoa;
 - (b) what was the total price paid by Simcoa to CALM for jarrah;
 - (c) from what areas was the jarrah extracted;
 - (d) how much of the jarrah came from the disease risk area;
 - (e) were any of the logs delivered to Simcoa subsequently used to produce sawn timber, either on site or after retransport to a sawmill; and
 - (f) if so, how much?

- (3) What was the breakdown of the price paid by Simcoa to CALM in 1993/94 and 1994/95, which in reply to question 4 (b) (i) was said to be \$33 per tonne in 1993/94 and \$37.98 per tonne in 1994/95 (base royalty, roading, inforest, administration and other charges)?
- (4) What were the roading, inforest and administration charges in 1995/96?

Hon MAX EVANS replied:

- (1) (a) the age of wood sold to Simcoa is not measured and therefore it is not possible to answer the question;
- (b) (i)

Green jarrah	\$/tonne
July 1993	4.77
January 1994	4.86
July 1994	4.86
January 1995	5.00
July 1995	5.23
January 1996	5.41
- (ii)

Dry jarrah	\$/tonne
July 1993	4.77
January 1994	6.20
July 1994	6.20
January 1995	6.38
July 1995	6.67
January 1996	6.90
- (c) (i)

Green jarrah	\$/tonne
July 1993	8.40
January 1994	8.54
July 1994	8.59
January 1995	8.73
July 1995	9.11
January 1996	9.29
- (ii)

Dry jarrah	\$/tonne
July 1993	8.40
January 1994	9.88
July 1994	9.93
January 1995	10.11
July 1995	10.55
January 1996	10.78
- (2) (a) (i) Green jarrah 22 061.25 tonnes.
(ii) Dry jarrah 63 844.25 tonnes.
- (b) \$3 381 522.63.
- (c) Forest blocks - South West Capes District - 6 blocks
Blackwood District - 23 blocks
Dwellingup District - 9 blocks
Mornington District - 14 blocks
- (d) 28 730 tonnes.
- (e) Yes.
- (f) 21 tonnes.
- (3)

	1993-94	1994-95
	\$/tonne	\$/tonne
Royalty	5.30	6.00
Production	14.22	15.26
Delivery	9.83	12.99
Admin	1.06	1.07
Inforest	0.60	0.61
Roading	1.99	2.05
	<u>33.00</u>	<u>37.98</u>
- (4)

	1995-96
	\$/tonne
Admin	1.11
Inforest	0.64
Roading	2.13

PASTORAL LEASES - QUANNUP STATION

Current Status

231. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

With reference to Quannup Station, pastoral lease 3114/824, south of Lake Jasper within the boundaries of the D'Entrecasteaux National Park -

- (1) How many hectares are or were covered by the lease?
- (2) Is the lease still in existence?
- (3) If yes -
 - (a) who is the current lessee; and
 - (b) when did the current lessee acquire the lease?
- (4) If the current lessee is a Government agency -
 - (a) was the lease purchased or exchanged for other land;
 - (b) what did the previous lessee receive for the lease; and
 - (c) when will the area be reserved as national park, in compliance with the 1987 park management plan?
- (5) If the current lessee is not a Government agency, when will the Government cancel or acquire the lease, in compliance with the 1987 park management plan?
- (6) If the lease is no longer in existence -
 - (a) who was the last lessee;
 - (b) when did the lease end; and
 - (c) has the area been reserved as national park?
- (7) If yes, when?
- (8) If not, what is the current status of the area?

Hon MAX EVANS replied:

- (1) 4727.
- (2) Yes.
- (3) (a) Mr L F Dickson of Nannup, Farmer.
- (b) 31 January 1986.
- (4) Not applicable.
- (5) When a mutually satisfactory arrangement can be made with the lessee.
- (6)-(7) Not applicable.
- (8) Pastoral lease.

HOMESWEST - LOCAL GOVERNMENT AND COMMUNITY HOUSING

Cost

235. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Housing:

- (1) What was the average unit cost of dwellings constructed for Homeswest in the years -
 - (a) 1992/93;
 - (b) 1993/94;
 - (c) 1994/95; and
 - (d) 1995/96,

for each of the following -

- (i) local government and community housing; and
- (ii) crisis accommodation?

- (2) Are Federal grants used to purchase land for future development?
- (3) If yes, how much was spent on land purchased in the years -
 - (a) 1992/93;
 - (b) 1993/94;
 - (c) 1994/95; and
 - (d) 1995/96?
- (4) Is this land all used for local government and community housing?
- (5) What was the average amount paid for dwellings purchased for local government and community housing for the years -
 - (a) 1992/93;
 - (b) 1993/94;
 - (c) 1994/95; and
 - (d) 1995/96?

Hon MAX EVANS replied:

- (1) The answer to question 235 (1) (a) (b) (c) (d) is not readily available. To provide this information would consume considerable time and resources which I am not prepared to commit. Should the member have a specific project of concern I would quite readily provide the answer.
- (2) Yes.
- (3) The answer to question 235 (3) (a) (b) (c) (d) is not readily available. To provide this information would consume considerable time and resources which I am not prepared to commit. Should the member have a specific project of concern I would quite readily provide the answer.
- (4) Usually yes. However, if proven unsuitable, land may be sold for alternative use and the funds returned to the community housing program.
- (5) The answer to question 235 (5) (a) (b) (c) (d) is not readily available. To provide this information would consume considerable time and resources which I am not prepared to commit. Should the member have a specific project of concern I would quite readily provide the answer.

ENVIRONMENT - STATE OF THE ENVIRONMENT REPORT

Publication

245. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

- (1) When was the last State of the Environment Report for Western Australia produced?
- (2) Which person or agency was responsible for producing that report?
- (3) Why did the Government fail to complete a State of the Environment Report during its first term of office?
- (4) Does the Government intend to produce a State of the Environment Report during this term of office?
- (5) If yes, when?
- (6) If not, why not?
- (7) Which person or agency is responsible for producing the State of the Environment Report?

Hon MAX EVANS replied:

- (1) The last State of Environment report for Western Australia was produced in December 1992.
- (2) The then Environment Protection Authority now Department of Environmental Protection coordinated the production of the report.
- (3) In its first term of office the Government initiated by Cabinet decision (June 1995) the production of the second State of Environment report for Western Australia. The production of such reports can typically take two years.

- (4) Yes.
- (5)-(6) The preparation of the draft report is now in its final stages. It is expected to be released to the public for comment in May 1997.
- (7) The Department of Environmental Protection is coordinating the report. Its production is being overseen by a State of Environment reference group established by the Minister for the Environment.

REGIONAL PARKS - LEGAL STATUS

Government Commitment

246. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:
- (1) Is the Minister for the Environment aware that the Government promised to give legal status to regional parks during its first term of office?
- (2) Why wasn't this commitment honoured?
- (3) Does the Government intend to give legal status to regional parks?
- (4) If so when?
- (5) If not, why not?

Hon MAX EVANS replied:

- (1) The coalition policy on the environment released on 13 January 1993 indicated a coalition Government would look to develop a system of regional parks.
- (2) The Government has identified a system of regional parks in the metropolitan area.
- (3) Yes.
- (4) When the CALM Act is amended to create a new class of land to be known as "regional park".
- (5) Not applicable.

WILDLIFE CONSERVATION ACT - AMENDMENTS

Government Commitment

247. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:
- (1) Is the Minister for the Environment aware that the previous Government released a draft of the amendments to the *Wildlife Conservation Act* for public comment in October 1992?
- (2) Is the Minister aware that the Coalition Parties promised to update these amendments during their first term of office?
- (3) Is the Minister also aware that the promise referred to above was not kept?
- (4) Does the Minister intend to honour the Government's commitment to update the amendment to the *Wildlife Conservation Act*?
- (5) If yes, when?
- (6) If not, why not?

Hon MAX EVANS replied:

- (1) Yes I am aware that the then Labor Government released a draft Bill for public comment.
- (2) The 1993 coalition environment policy included an undertaking to review the provisions of the Act so that the Crown will be bound by its own fauna laws, and to examine ways in which the Act can be strengthened to protect the habitats of endangered species.
- (3)-(6) The Wildlife Conservation Act 1950 is being reviewed in its entirety and will be progressed following completion of work on the Acts Amendment (Marine Reserves) Bill 1997.

ENVIRONMENT - STATE CONSERVATION STRATEGY

Government Policy

248. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

- (1) Is the Minister for the Environment aware of a document called the State Conservation Strategy for Western Australia (1987)?
- (2) If yes, does the Minister accept it as a statement of policy?
- (3) Does the Government intend to update the State Conservation Strategy to take into account developments over the past decade?
- (4) If yes, when?
- (5) If not, why not?

Hon MAX EVANS replied:

- (1) Yes.
- (2) The Government has not explicitly considered the document as a statement of policy but regards it as a guiding document. The actions of the Government in areas such as being a signatory to the National Strategy for the Conservation of Australia's Biological Diversity and the review of the National Strategy on Ecologically Sustainable Development are broadly consistent with elements of the State Conservation Strategy and in many ways have progressed beyond them.
- (3)-(5) The Government's priority is to finalise the State of the Environment report following a period of public review during 1997. This will give practical effect to many of the key principles contained in the State Conservation Strategy.

HOSPITALS - ROSTERING SYSTEM

ROSTAR - Nurse Management System

360. Hon MARK NEVILL to the Minister for Finance representing the Minister for Health:

Further to question on notice 204 -

- (1) Who developed the Nurse Management System for rostering?
- (2) Is this a computer based system?
- (3) What have been the costs of the use and development of this system?

Hon MAX EVANS replied:

- (1) Travenol Laboratories Pty Ltd.
- (2) Yes.
- (3) Information on the use of systems is not recorded and associated costs are thus not available. This system was developed as part of a wider project, under a single contract, to develop a number of hospital information systems. As a result it is not possible to identify the specific costs involved with the development of this system with prevision. However, the cost of the development and implementation of the system was of the order of \$735 000.

BOULDER RAILWAY STATION - BLAST MONITORING

376. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

I refer to Kalgoorlie Consolidated Gold Mines Pty Ltd blast over pressure monitoring -

- (1) Is it a statutory or ministerial condition for blast over pressure monitoring for the KCGM open pit operations that 125dB is not exceeded at the Boulder Railway Station?
- (2) If not, would the Minister for the Environment state what, if any, are the statutory or ministerial conditions relating to blast over pressure?

- (3) Has KCGM installed a permanent blast monitor at the Boulder Railway Station to monitor blast over pressure?
- (4) If not, why not?
- (5) Will the Minister immediately instruct KCGM to install a permanent blast monitoring unit at the Boulder Railway Station to monitor blasting to ensure the residents of Kalgoorlie/Boulder are not repeatedly subjected to excess blast overpressure?
- (6) If not, why not?

Hon MAX EVANS replied:

- (1)-(2) The requirement, introduced as a ministerial environmental condition is that "The proponent shall ensure that the air-blast over pressure level from every blast is measured at a site adjacent to the Boulder railway station, or at an alternative site approved by the CEO".
- (3) No.
- (4) KCGM uses a number of monitoring sites which have been approved by the CEO. These are chosen so that a site close to the blast location is used.
- (5) No.
- (6) The use of a number of sites is seen as technically better, given the linear spread of the KCGM pit along the edge of the Kalgoorlie-Boulder townsite.

GOVERNMENT CONTRACTS - JOONDALUP HEALTH CAMPUS

407. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:

- (1) How many contracts have been awarded for the Joondalup Health Campus?
- (2) Who has been awarded this or these contracts?
- (3) What were the respective value or values of this or these contracts?
- (4) What -
 - (a) savings; or
 - (b) additional costs,
 have resulted from the provision of each of these services by private contractors instead of by Government?
- (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

- (1) Effectively one contract has been awarded for the Joondalup Health Campus for the building of new and expanded hospital facilities on the previous Wanneroo Hospital site and for the purchase of health services for public patients in the new hospital for a 20 year period. The successful contractor is responsible for other local subcontracts within the contract with the Health Department.
- (2) Health Care of Australia, a subsidiary of Mayne Nickless Ltd.
- (3) The contract value will vary from year to year, depending on the Government's requirements for services for public patients. The indicative full year value is approximately \$30m.
- (4) The savings to the Government over 20 years will be \$22m.
- (5) Extensive mechanisms - quality, performance, audit and access monitoring are contractual requirements.

GOVERNMENT CONTRACTS - ROYAL PERTH HOSPITAL

Catering

408. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:

- (1) How many contracts have been awarded for the catering at Royal Perth Hospital?

- (2) Who has been awarded this or these contracts?
- (3) What were the respective value or values of this or these contracts?
- (4) What -
 - (a) savings; or
 - (b) additional costs,
 have resulted from the provision of each of these services by private contractors instead of by government?
- (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

- (1) One.
- (2) Gardner Merchant Pty Ltd.
- (3) \$6 804 000 per annum based on current activity.
- (4) \$350 000 per annum to Royal Perth Hospital plus benefits to whole of government through receipt of payroll tax and elimination of superannuation for previous hospital employees.
- (5) Contract manager appointed to oversee contract. External contract let to undertake periodic surveys for the monitoring of food quality and patient satisfaction. A survey was undertaken prior to Gardner Merchant taking over to establish the benchmark. Microbiological standards established and testing mechanisms introduced. Internal quality group established. Internal complaint procedures established.

GOVERNMENT CONTRACTS - ROYAL PERTH HOSPITAL

Housekeeping Services

409. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:
- (1) How many contracts have been awarded for the house keeping services at Royal Perth Hospital?
 - (2) Who has been awarded this or these contracts?
 - (3) What were the respective value or values of this or these contracts?
 - (4) What -
 - (a) savings; or
 - (b) additional costs,
 have resulted from the provision of each of these services by private contractors instead of by government?
 - (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

- (1) Two.
- (2) SSL Health Care of Wellington Street Campus and P & O Urban Services for Shenton Park Campus.
- (3) SSL - \$1 555 000 per annum and P & O - \$580 572 per annum - based on current activity.
- (4) \$350 000 per annum across both campuses, plus benefits to whole of government through receipt of payroll tax and the elimination of superannuation for previous hospital employees.
- (5) Contract manager appointed to oversee contract; performance indicators established; and internal complaint procedures established.

GOVERNMENT CONTRACTS - SIR CHARLES GAIRDNER HOSPITAL

Orderly Services

410. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:
- (1) How many contracts have been awarded for the orderly services at Sir Charles Gairdner Hospital?
 - (2) Who has been awarded this or these contracts?

- (3) What were the respective value or values of this or these contracts?
- (4) What -
 - (a) savings; or
 - (b) additional costs,
 have resulted from the provision of each of these services by private contractors instead of by government?
- (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

- (1) One.
- (2) P & O Health Services.
- (3) \$1.98m per annum at 30 October 1995 - date of original contract.
- (4) There have been savings of \$1.69m per year.
- (5) Fortnightly meeting of the Contracting of Orderly Services User Liaison Committee.

GOVERNMENT CONTRACTS - GRAYLANDS HOSPITAL

Gardening and Grounds Maintenance

411. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:

- (1) How many contracts have been awarded for the gardening and grounds maintenance at Graylands Hospital?
- (2) Who has been awarded this or these contracts?
- (3) What were the respective value or values of this or these contracts?
- (4) What -
 - (a) savings; or
 - (b) additional costs,
 have resulted from the provision of each of these services by private contractors instead of by government?
- (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

- (1) There was one combined contract awarded for Graylands Hospital and Selby/Lemnos complex.
- (2) The contract was awarded to Hortplan Pty Ltd.
- (3) The value of the contract is \$268 900 for the first year plus CPI increases each year thereafter for three years.
- (4) (a) The in-house costs prepared using Treasury guidelines were \$480 104 in the first year versus the accepted tender price of \$268 900 in the first year.
- (b) The cost of staff voluntary severances additional to the contract information on this cost is being collected.
- (5) Meetings are held monthly with the contractor following daily inspections by a senior staff member.

GOVERNMENT CONTRACTS - GRAYLANDS HOSPITAL

Non-ward Cleaning

412. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:

- (1) How many contracts have been awarded for the non-ward cleaning at Graylands Hospital?
- (2) Who has been awarded this or these contracts?
- (3) What were the respective value or values of this or these contracts?

- (4) What -
- (a) savings; or
 - (b) additional costs,
- have resulted from the provision of each of these services by private contractors instead of by government?
- (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

- (1) There was one combined contract awarded for Graylands Hospital and Selby/Lemnos complex.
- (2) The contract was awarded to Golden West Corporate Pty Ltd.
- (3) The value of the contract is \$105 560 for the first year plus CPI increases each year thereafter for two years.
- (4) (a)-(b) The in-house costs prepared using Treasury guidelines were \$215 337 in the first year versus the accepted tender price of \$105 560 in the first year.
- (5) Weekly inspections are held with the contractor.

GOVERNMENT CONTRACTS - GRAYLANDS HOSPITAL

Gardening and Grounds Maintenance

414. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:
- (1) How many contracts have been awarded for the gardening and grounds maintenance at Graylands Hospital?
 - (2) Who has been awarded this or these contracts?
 - (3) What were the respective value or values of this or these contracts?
 - (4) What -
 - (a) savings; or
 - (b) additional costs,
- have resulted from the provision of each of these services by private contractors instead of by government?
- (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

Please see answer to question 411.

GOVERNMENT CONTRACTS - BENTLEY HEALTH SERVICE

Medical Imaging Services

415. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:
- (1) How many contracts have been awarded for the medical imaging services for Bentley Health Service?
 - (2) Who has been awarded this or these contracts?
 - (3) What were the respective value or values of this or these contracts?
 - (4) What -
 - (a) savings; or
 - (b) additional costs,
- have resulted from the provision of each of these services by private contractors instead of by government?
- (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

- (1) One.
- (2) Perth Radiological Clinic.
- (3) Ninety-five per cent of the medical benefits schedule per case.

- | | | | |
|-----|-----|----------------------|----------------------|
| (4) | (a) | 1994-95
\$300 600 | 1995-96
\$282 000 |
| | (b) | Not applicable. | |
- (5) Survey of visiting medical staff as to timeliness and accuracy of reports. Unit price is limited to a government schedule of fees. Annual review of rental.

GOVERNMENT CONTRACTS - SIR CHARLES GAIRDNER HOSPITAL

Non-clinical Cleaning

416. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:
- (1) How many contracts have been awarded for the non-clinical cleaning at Sir Charles Gairdner Hospital?
- (2) Who has been awarded this or these contracts?
- (3) What were the respective value or values of this or these contracts?
- (4) What -
- (a) savings; or
(b) additional costs,
have resulted from the provision of each of these services by private contractors instead of by government?
- (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

- (1) Sir Charles Gairdner Hospital has contracted out the bulk of its non-clinical cleaning since 1982.
- (2) The current contractor is Gold West Corporate Pty Ltd. Previous contractors were Prestige Property Services (Kennedy Cleaning); United Health Services; and Crothalls.
- (3) The value of the current two year contract is \$472 555 or \$19 689 per month. The previous Prestige Property Services contract was \$19 820 per month. The hospital is unable to find the values of the United Health Services and Crothalls contracts; they were prior to 1992.
- (4) Not applicable. Due to the length of time the service has been contracted out, the comparative costs of the contracted and in-house services are unavailable.
- (5) Contractual performance is monitored by way of joint weekly inspections and a formal complaints register for ad hoc cleaning service complaints from hospital staff.

GOVERNMENT CONTRACTS - ROCKINGHAM-KWINANA HEALTH SERVICE

Medical Imaging Services

418. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Health:
- (1) How many contracts have been awarded for the medical imaging services for Rockingham-Kwinana Health Service?
- (2) Who has been awarded this or these contracts?
- (3) What were the respective value or values of this or these contracts?
- (4) What -
- (a) savings; or
(b) additional costs,
have resulted from the provision of each of these services by private contractors instead of by government?
- (5) What mechanisms are in place to monitor the performance of the private contractors?

Hon MAX EVANS replied:

- (1) Two - the initial contract has just been renewed for five years for the radiologist service and the provision of ultrasound only.

- (2) Rockingham Medical Imaging Service.
- (3) There is no defined value. A fee for service for public patients is charged to the hospital based on a schedule fee. Revenue is received by the hospital from private work, that is, a facility fee.
- (4) Not applicable as the provision of these services has not previously been provided by the Government - public sector - but by private radiologists on an informal basis. The tender process has since formalised this arrangement.
- (5) Rockingham Medical Imaging is required to participate in the health service's global quality plan, in addition to compliance with Australian Council on Healthcare standards for accreditation. In addition, the contractor is required to report annually on a range of performance indicators to the general manager.

MINING - WITTENOOM

Tailings Clean-up

454. Hon MARK NEVILL to the Leader of the House representing the Minister for Commerce and Trade:

- (1) What funds have been allocated in the forward estimates for the clean up of the tailings at Wittenoom minesite?
- (2) When is work proposed to commence?
- (3) What method of disposal has been agreed on?

Hon N.F. MOORE replied:

- (1) None.
- (2) A date has not been set to commence clean up.
- (3) Not applicable.

QUESTIONS WITHOUT NOTICE

SENATE VACANCY - JOINT SITTING

Date

302. Hon TOM STEPHENS to the Leader of the House:

I refer the Leader of the House to the resolution that was carried in the Senate with the support of the Liberal and National Parties, in which it was noted that 96 days had passed since the death of Senator Panizza, during which time this State had been without its full representation in the Senate, and that this was the longest delay in filling a casual vacancy since the casual vacancy provisions of the Constitution were amended in 1977. In the light of the Senate's concerns about this unconscionable delay, when will the joint sitting take place to fill this vacancy so that Western Australia can, in the words of the resolution, "regain its full representation"?

Hon N.F. MOORE replied:

I have not heard a great deal of enthusiasm from the Opposition about filling vacancies in Western Australia at the present time. There is a serious problem with our legislation in respect of vacancies that can be created in this House. I have not heard the Opposition talk about the vacancy that will be created by the departure of Hon Ross Lightfoot, which cannot be filled under the existing laws of this State. I am looking forward to hearing the Leader of the Opposition wax lyrical about that in due course and assist the Government in fixing that problem.

Hon Kim Chance: There is no vacancy in Western Australia.

Hon N.F. MOORE: I am saying that in the event that a vacancy is created during a certain period of time in Western Australia it cannot be filled. That is a fact of life which we need to fix. Had this situation not been the case, we might not be discussing this motion now. I notice that Hon Tom Stephens has a motion on this, which he will move tomorrow, in which he refers to a motion passed in the Senate. A previous, similar motion was passed in the Senate in 1992. It also referred to a Western Australian vacancy. The previous Labor Government was being chastised by the Senate on that occasion in the same way that the Senate now chastises this Government. The boot is on both feet,

as it were. It is very clear that not all Governments are pure. The last time the Senate had to do this was when Dr Carmen Lawrence was Premier of Western Australia. We have taken on board the comments of the Senate. As members well know, we will have a joint sitting in due course to appoint a replacement for Senator Panizza.

SENATE VACANCY - JOINT SITTING

Commonwealth Government Approaches

303. Hon TOM STEPHENS to the Leader of the House:

I refer the Leader of the House again to the ongoing delay in the appointment of Hon Ross Lightfoot to the Senate despite 96 days having elapsed since the Senate vacancy arose and to comments by his Senate counterpart, Senator Hill, in the Senate today that the Commonwealth Government had made approaches to the Western Australian Government on this issue.

- (1) Was the Leader of the House made aware of these approaches?
- (2) By whom in the Commonwealth Government has the State Government been approached on this issue?
- (3) To whom were these approaches made?
- (4) When were the approaches made?
- (5) What was the State Government's response to those approaches?
- (6) Were those approaches or the Government's responses in writing; if yes, will the Leader of the House provide a copy of any written response?

Hon N.F. MOORE replied:

- (1) I am not aware of any approaches to which the member refers.
- (2)-(6) Not applicable.

LAND - CAPE CUVIER

Hazardous Coastline

304. Hon J.A. SCOTT to the Minister representing the Minister for Lands:

- (1) Was the former Minister for Lands, Hon George Cash, informed through the office of Hon Phil Lockyer of the hazardous nature of the coastline at Cape Cuvier in 1993?
- (2) Did a Mrs Elaine Michael inform Hon Phil Lockyer's office that sections of the cliff face were collapsing in a similar manner to that which occurred at Gracetown?
- (3) Did Mrs Michael inform Hon Phil Lockyer that the coastal area at Cape Cuvier was heavily populated with tourists watching the fish feeding frenzy phenomenon?
- (4) If yes, what action did the Minister for Lands take to ensure public safety in that area?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Hon Phil Lockyer approached the Minister for the Environment in 1993 regarding the nature of the coastline at Cape Cuvier. The Minister for the Environment passed Hon Phil Lockyer's letter to Hon George Cash, then Minister for Lands.
- (2) As Mrs Michael's name was not mentioned in the letter, perhaps the member would like to take this matter up with Hon Phil Lockyer.
- (3) Hon Phil Lockyer advised in his letter that concern had been raised by a number of constituents and tourists regarding the lack of warning signs and possible dislodgement of limestone on the cliff top. He further advised that the fish feeding frenzy had attracted an influx of people into the area.
- (4) An inspection of the area was conducted by the Department of Lands Administration. Although some signage was in place, it was decided that further signs were required. These signs were ordered by DOLA through the Shire of Carnarvon and were installed by the shire.

AIRPORT - PERTH INTERNATIONAL

*Sale - Airstralia Development Group Pty Ltd***305. Hon DERRICK TOMLINSON to the Minister for Transport:**

- (1) Is it true that an announcement has been made today regarding the successful bidder for the lease of the Perth International Airport?
- (2) If so, what is the name and background of the new airport owner?
- (3) Will the State benefit from the sale of the lease to the new owner?

Hon E.J. CHARLTON replied:

- (1) Yes.
- (2) The new owner is Airstralia Development Group Pty Ltd. The company comprises Airport Group Holdings International, Infratil Australia Ltd - an Australian infrastructure investment company - and Hastings Fund Management. AGI has a particularly strong aviation background, being represented at 22 locations worldwide and with close to 70 years' experience in the provision of air services. It has a number of notable aviation achievements, including ownership and management of one of Los Angeles' airports; building and operating the international airport terminal in Toronto; operation of the Atlanta International Airport during the 1996 Olympic Games; and design of international air terminals in China and the former Soviet Union.

Some of the major players within the AGI group include Lockheed Martin Corporation - the world's largest defence contractor, with annual sales in excess of \$29b; Soros Capital - the principal entity within the \$15b Quantum Group; GE Corporation - the largest company in the United States; and Duty Free Shoppers Ltd - the largest duty free retailer in the world.

As can be seen, the new owner brings a wealth of aviation background and experience to Perth, and this should see Perth International Airport as one of the region's major airports well into the future. It is understood that the price offered for the lease of Perth Airport was \$643m.

- (3) I have had the opportunity to canvass the views of many of the consortia bidding for Perth International Airport to obtain details of their proposals for the airport and have made known to them the State's economic, tourism and transport strategies and objectives. I am pleased to say that ADG recognises that the future growth of air traffic through Perth International Airport in a large part depends on the general economic development of the State and on specific aviation, tourism and industry related developments throughout Western Australia. The State therefore looks forward to a close working relationship with ADG over the coming years to see that both the airport and the State continue to prosper.

We met with all the bidders prior to the calling of tenders for the airport. We outlined to them the strategies and criteria that we considered absolutely necessary for any successful bidder for the airport. We also met with the task force that decided on the outcome. We are very pleased that this consortium has been successful, particularly because it centred its view on Perth Airport. The whole of Western Australia will benefit from this. I am happy to have members of the Opposition introduced to the new management of the airport at any time they would like.

TOURISM - AEROBICA - THE EVENT

*Funding***306. Hon TOM STEPHENS to the Minister for Tourism:**

On 9 April the Minister for Tourism claimed that the Western Australian Tourism Commission had provided \$100 000 toward the staging of the FIG World Aerobics Championship, as well as \$17 000 for "in kind services and marketing costs", an office phone and fax services.

- (1) Is the Minister aware that, in conjunction with the aerobics championship, a health and fitness convention, a step team championship and a lifestyle expo are also being held?
- (2) If yes, what is the total amount of government funding given to the organisers of this event, currently known as Aerobica - The Event?
- (3) How many teams and individuals will be competing and how many nations will be represented?

Hon N.F. MOORE replied:

- (1) Yes. Aerobica is an exciting event which was created around the core of the World Aerobics Championship to add value in terms of the economic impact to the State.
- (2) As stated previously, the funding for this event totals \$117 000, plus office space and fax and phone services.
- (3) Competitors in the Aerobics World Championship are estimated as follows: Thirty-eight women and 36 men in the individual events; 30 mixed pairs and 24 trios. This represents 206 competitors plus judges. In addition, each team has coaches, medical staff and often choreographers. Thirty-nine nations will be represented. In addition, the other activities of Aerobica will include a convention which has currently received 250 registrations; a step event which will have 12 to 15 teams - 120 to 150 competitors and coaches; and an expo which will have 50 booths featuring industry from both Western Australia and the Eastern States.

Also as part of Aerobica a judges course is being run which has 35 participants from 16 international federations and four presenters. Organisers have currently accredited 17 media representatives from outside of Western Australia. Organisers estimate that the entire Aerobica event will have a minimum of 815 participants.

HOMOSEXUALITY - TASMANIAN CRIMINAL CODE

High Court Challenge - Action by Western Australia

307. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the High Court challenge to provisions of the Tasmanian Criminal Code regarding sodomy and the reported decision of the Tasmanian Government not to defend the action.

- (1) What stance is now being adopted by the State of Western Australia on the matter?
- (2) What action has been taken to date?
- (3) What action is intended to be taken?

Hon PETER FOSS replied:

- (1)-(3) I am still awaiting advice from the Solicitor General as to whether anything continues to exist if the case is allowed to pass by the Tasmanian Government. Until I have that advice I am not able to answer any of the three questions. It will be a matter of seeing what legally we can and cannot do.

DOMESTIC VIOLENCE - CONTRACTS

Private Sector - Time Lines

308. Hon CHERYL DAVENPORT to the Minister representing Minister for Women's Interests:

- (1) Did the domestic violence unit or the Women's Policy Development Office conduct a briefing about domestic violence for service providers on 24 April?
- (2) Did organisations then have to submit tenders to conduct training by 1 May or thereabouts?
- (3) Is it true that the first training module must be conducted within six weeks of receiving funding, and the six training modules completed within six months?
- (4) If this is true, why was the time between the initial briefing and the closing of tenders so short?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1)-(2) Yes.
- (3) Sixteen training sessions across 16 regions will be provided in the first six weeks. The remaining 16 sessions will be completed in each of the regions over the following four and a half months.
- (4) The time lines are standard for government contracts.

PORT KENNEDY - RESORTS DEVELOPMENT

Golf Course and Amenities

309. Hon J.A. SCOTT to the Attorney General representing Minister for Planning:

With regard to Port Kennedy Resorts Development -

- (1) What percentage of the golf course area has remnant vegetation?
- (2) What is the value of community facilities that have been provided by the developer?
- (3) Does this include private golf courses?
- (4) Can the Minister define which areas covered by the Port Kennedy Resorts Agreement are -
 - (a) public space;
 - (b) private space; and
 - (c) scientific park area?

Hon PETER FOSS replied:

I thank the member for some notice of this question. As this reply will require investigation and cannot be provided within the time allowed, I ask the member to place the question on notice.

EDUCATION - TEE SUBJECTS

Politics and Legal Studies

310. Hon J.A. COWDELL to the Leader of the House representing Minister for Education:

- (1) How many students have enrolled in the new TEE politics and legal studies course?
- (2) What schools offer TEE politics and legal studies?

Hon N.F. MOORE replied:

I again apologise to the member. He asked a number of questions yesterday and I did request that he ask me today; however, I still do not have an answer. I regret that that also applies to the other questions the member asked. I will speak to the Minister for Education to see whether I can hurry up the response, otherwise the member can put the questions on notice, which will ensure an answer.

TOURISM - COMMISSION

Berlin Trade Fair - Mr Peter Guilbert

311. Hon N.D. GRIFFITHS to the Minister for Tourism:

I refer the Minister to his answer to question without notice 92 asked on 26 March 1996.

- (1) Was Mr Peter Guilbert, the owner of ATC Rent-A-Car, present at the International Tourism Borse?
- (2) Were any of his expenses paid for by the State Government?
- (3) If so, how much did the State Government spend on his expenses?

Hon N.F. MOORE replied:

- (1) Yes. Mr Guilbert attended the 1997 International Tourism Borse.
- (2) As an incentive to attract greater Western Australian participation at what is recognised as the world's leading trade fair, the Western Australian Tourism Commission offered a subsidy to the Western Australian tourism industry for three years - 1996-98. A total of 19 companies, of which ATC Rent-A-Car was one, took up the offer in 1997. Prior to the implementation of the subsidy in 1996, only five companies participated in the event in the previous year. This initiative is part of a major ongoing cooperative program between the Tourism Commission and the tourism industry.
- (3) In 1997 a subsidy of \$2 500 was provided to each of the 19 operators.

TRANSPORT - CONCESSIONAL FARES

*Dayrider - Availability***312. Hon TOM STEPHENS to the Minister for Transport:**

- (1) Has Transperth submitted a review report to the Minister on the impact of changes to the availability of concessional Dayrider tickets?
- (2) If so, will the Minister table that report?
- (3) When will the Minister make a decision on the future of these concession fares?

Hon E.J. CHARLTON replied:

- (1)-(3) No, I have not been given that report. However, I will be meeting tonight with executives of the department dealing with concessional fares. I look forward to advising the House and the public tomorrow.

SCHOOLS - CLEANING

*Contracts - Consultation***313. Hon N.D. GRIFFITHS to the Leader of the House representing Minister for Education:**

When will the period of public consultation on the changes to school cleaning proposed by the Minister for Education conclude?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The 30 day period of public consultation on the proposed changes to school cleaning concluded on 24 March 1997. Hon Nick Griffiths must know something.

TOURISM - COMMISSION

*Berlin Trade Fair - Mr Peter Guilbert***314. Hon TOM STEPHENS to the Minister for Tourism:**

I refer to the Minister's earlier answer about the International Tourism Borse in Berlin. Was the \$2 500 that was provided to each of the 19 operators used by ATC Rent-A-Car as part of the subsidy to get Mr Peter Guilbert to the Berlin trade fair?

Hon N.F. MOORE replied:

I do not have that level of detail, other than to say that the Tourism Commission has provided assistance to companies in Western Australia that are involved in tourism to attend the International Tourism Borse in Berlin. I presume that the money is used by the companies that receive the funds to assist in their attendance at the trade fair. I do not know whether ATC's funds were used for Mr Guilbert's fares or accommodation. However, my understanding of the assistance provided to the industry is that it ensures as many Western Australian tourism operators as possible are able to access what is the biggest international tourism trade fair in the world. It is very important for our operators to attend that fair, so that they get a clear understanding of the competition around the world and to get themselves into world markets, because that is what it is also about. Assisting tourism operators to attend that trade fair is a worthwhile activity of the WATC.

GLOBAL DANCE FOUNDATION - INCORPORATION

315. Hon TOM STEPHENS to the Leader of the House representing the Premier:

- (1) Is the Premier aware that Peter Reynolds was so happy with the success of the Global Dance Foundation that on 16 October 1995, just four months after setting up the foundation, he advised *The West Australian* that he would apply for incorporation of the Global Dance Foundation?
- (2) Is the Premier aware that on 11 January 1996 the Global Arts Foundation was incorporated?
- (3) Can the Premier give an assurance that -
 - (a) the Global Arts Foundation has not applied for any form of funding from the State Government; and

- (b) if it did, no funding was forthcoming?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The Premier is not aware that the advice in *The West Australian* has ever been brought to his attention.
- (2) The Premier is not aware that the incorporation of an entity called the Global Arts Foundation was ever brought to his attention.
- (3) The Premier suggests the member put this question on notice for the appropriate Ministers.

POLICE - COMPUTER AIDED CALL TAKING

Advertisements

316. Hon KIM CHANCE to the Attorney General representing the Minister for Police:

Some notice of this question has been given. This question relates to the same matter on which I asked a question yesterday.

- (1) When were the advertisements seeking expressions of interest in supplying computer aided call taking and dispatch services for the police placed in the newspapers?
- (2) What were the names of the companies that expressed an interest in reply to the advertisement?

Hon PETER FOSS replied:

I do not have any record of notice of that question.

SCHOOLS - DRUG EDUCATION PROJECT

Funding

317. Hon N.D. GRIFFITHS to the Minister representing the Minister for Family and Children's Services:

I refer to the Premier's claim in the Legislative Assembly last week that the Minister for Family and Children's Services is responsible for the schools drug education project, which was launched on 4 April. How much money has been allocated to this project in the 1997-98 Budget?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The schools drug education project commenced in 1996-97 with an allocation of \$248 000 from the Central Drug Coordination Office. In 1997-98 the schools drug education project will continue to be funded from CDCO resources. An amount of \$250 000 has been identified in the 1997-98 Budget for this project.

TOURISM - ELLE CAMPAIGN

Ms Mostyn's Expenses

318. Hon N.D. GRIFFITHS to the Minister for Tourism:

Some notice of this question has been given.

- (1) Was a ceiling placed on the expenses the Government agreed to pay for Elle Macpherson's publicist, Patti Mostyn, during the filming of Tourism Commission commercials?
- (2) What is the total cost to date of Ms Mostyn's expenses?
- (3) What is the anticipated total cost of all payments to Ms Mostyn?

Hon N.F. MOORE replied:

I do not have a copy of the question of which the member indicates he gave me notice; therefore, I will take it on notice. However, today I tabled a full list of all the expenditure associated with the Elle Macpherson-Brand WA campaign.

Hon N.D. Griffiths: That does not answer the question.

Hon N.F. MOORE: Obviously I do not carry the numbers around in my head. I will provide the member with an answer as soon as possible.

DIRECTOR OF PUBLIC PROSECUTIONS - BRIAN MARTIN, QC

Payment

319. Hon MARK NEVILL to the Attorney General:

- (1) Was the payment to Brian Martin, QC for his most recent cases as prosecutor for the Director of Public Prosecutions made directly to him, into a trust, or by some other means?
- (2) To what account was it paid, and how much was paid for his services in each case?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The payment was made to him by Treasury cheques.
- (2) Counsel fees, travelling and other expenses totalling \$39 353 were paid to Mr B.R. Martin, QC for work undertaken on The Queen v Burke brief. Payment was made by way of two Treasury cheques - one for \$7 848, paid in January 1997, and the second for \$31 505, paid in March 1997.

DIRECTOR OF PUBLIC PROSECUTIONS - BRIAN MARTIN, QC

Payment

320. Hon MARK NEVILL to the Attorney General:

Did the Attorney General mention whether they were paid into a company trust account or a private account?

Hon Peter Foss: They were paid to him. How they were paid to him, I don't know.

Hon MARK NEVILL: That was part of the question.

The PRESIDENT: Order! That was a supplementary question. Members do not get the answer while the Minister is sitting down.

Hon PETER FOSS replied:

I do not have the details of that. The answer indicates clearly that he was given a cheque. What he then does with the cheque is up to him.

Hon Mark Nevill: Who was the cheque made out to?

Hon PETER FOSS: To him.

PARKS AND RESERVES - MARINE

Ningaloo - Oil Exploration

321. Hon J.A. COWDELL to the Minister representing the Minister for the Environment:

Given that the new marine parks legislation allows oil exploration in marine parks, and given the Premier's equivocal comments about standing by his ban on oil exploration in Ningaloo Marine Park, will the Minister assure the House that the Government will stand by its promise not to allow oil exploration in Ningaloo Marine Park?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Government's policy on exploratory drilling for petroleum and the production of petroleum in Ningaloo Reef has not changed. These activities will not be permitted in the Ningaloo Marine Park.

ANNE VANSTONE, QC - FEES

Method of Payment

322. Hon MARK NEVILL to the Attorney General:

- (1) As Minister responsible for the Legal Practitioners Act, will the Attorney General inform the House whether the fees of Anne Vanstone, QC, from South Australia were paid through a family trust or corporate body?

- (2) If yes, to which trust or corporate body were the payments made?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1)-(2) As Minister responsible for the Legal Practitioners Act, there is no reason I should be aware of fees paid to any lawyer. If the member wants to address me in my capacity as Minister responsible for legal affairs of the Government, the questions do not provide any indication of the matter or matters in relation to which they suggest that fees were paid to Anne Vanstone, QC. Consequently, without such an indication, answers cannot be provided.

RAILWAYS - WESTRAIL

Mr Max Bird - Employment

323. Hon TOM STEPHENS to the Minister for Transport:

- (1) Has Max Bird been re-employed by Westrail after taking employment as a supervisor with John Holland Construction and Engineering Pty Ltd's truck maintenance branch?
- (2) What are Mr Bird's duties?
- (3) Do Mr Bird's duties now include approving, supervising, monitoring, or in any way dealing with the truck maintenance contracts let to John Holland?
- (4) Is the Minister aware whether Mr Bird has continued to be paid by John Holland since he returned to Westrail's employ?
- (5) Is the Minister aware whether Mr Bird has any arrangement with John Holland concerning his return to that company?

Hon E.J. CHARLTON replied:

I am not aware of any of those aspects. If the member puts the question on notice, I will find out whether Mr Bird has flown or stayed.

JUSTICES OF THE PEACE - CERTIFICATES

New

324. Hon TOM STEPHENS to the Attorney General:

I notice the Attorney General has spent a fair bit of time in the Chamber signing new certificates, which I gather have something to do with certificates issued to persons made justices of the peace. With regard to these new certificates the Attorney General is issuing to replace the certificates issued to persons made justices of the peace since 1982 -

- (1) Did the new certificates go to all those who became JPs after 1982?
- (2) Why was a redesign of the certificate necessary?
- (3) In particular, why was the Attorney General's signature and qualifications such a dominant feature of the new certificate?

Hon Mark Nevill: You're lucky it didn't have the family crest on it.

Hon PETER FOSS replied:

- (1)-(3) I am pleased to have this question. The Royal Association of Justices of Western Australia expressed to the previous Attorney General and to me its disgust with the certificates justices of the peace had been given since the Governor ceased to give them direct commissions. I can agree with that. The certificate was a thick piece of cardboard with silver printing on it that looked more appropriate for someone who had completed a silver service course at TAFE.

Opposition members: What is wrong with that?

Hon PETER FOSS: The previous certificate was signed by the Governor personally and was on a sheet of A2 paper. It was printed with Corinthian columns and had the public seal of the State and the signature of the Governor on it.

One can see why the officers who regard themselves, quite correctly, as performing one of the most valuable and important roles in this State, felt somewhat cheated when comparing the certificates with those they had received before. The reason for the change was that the Governor ceased to sign individual certificates. I presented this to the Royal Association of Justices of Western Australia. I first secured the agreement of His Excellency to go back to individual commissions. I gave the association the form of commission and a certificate. It was not happy with the certificate because it is not sufficiently close to the certificate issued by the Governor. The association asked that everybody be given a proper certificate which looked as much as possible like the certificate the Governor had issued. The change was made at the suggestion of the Royal Association of Justices. It asked that the certificate contain the words "God save the Queen!!!", but I refused. It also asked that it be signed at the top by me and that it include my qualifications.

The PRESIDENT: Order! The rules state that the answers to questions shall be concise.

Hon PETER FOSS: I cannot be more concise without leaving out an important point. It is included because it was specifically requested in that form by the Royal Association of Justices, and when I agreed to do that it was extremely pleased. It felt that at long last the justices of Western Australia, who had been performing a very important role, had something substantial to stick on the wall that did not look like a shoddy piece of cardboard. That is exactly what most people currently have. The people currently receiving the certificates are those who, according to the records of the non-stipendiary appointments branch of the Ministry of Justice, did not receive the former certificates.

Hon John Halden: Where is mine?

Hon PETER FOSS: I have done the certificate for Hon John Halden and those for a number of other members in this Chamber.

Hon E.J. Charlton: Mr Halden may have done his, as well.

The PRESIDENT: Order! If members want to make this a circus, I will go home.

Hon Graham Edwards: Can I go with you?

The PRESIDENT: Order! I ask the Minister to bring his answer to a conclusion. He is going on as though it were an opera.

Hon PETER FOSS: I would like to make all the facts known.

The PRESIDENT: Order! I impose the rules, and the rules are that the Minister's answer shall be concise. He is going on and on.

Hon PETER FOSS: I have to answer a lot of questions and I still have not finished answering all of them.

Point of Order

Hon TOM STEPHENS: The Minister is in the process of defying the Chair. You will appreciate, Mr President, that members on this side of the House have the greatest respect for the Chair and believe the Minister has an obligation to show the same respect.

The PRESIDENT: I hope the member has an equal amount of confidence in the Chair to run the show. The Minister should answer the question. It was a very short question and he is making a mammoth deal of it.

Questions without Notice Resumed

Hon PETER FOSS: I am sorry, but the alternative is to refuse to answer it because insufficient time is available. I want to answer the final part of the question.

Hon Tom Helm: What did you have for tea last night?

Hon PETER FOSS: Raw steak.

Point of Order

Hon TOM STEPHENS: The Minister is showing continual defiance of the Chair.

The PRESIDENT: It is not continual defiance of the Chair. The Leader of the Opposition is getting as bad as the Minister.

Questions without Notice Resumed

Hon PETER FOSS: I am trying to bring my answer to a conclusion but I keep being interrupted. The last point is that I will be providing those certificates to all persons in that category, and I am aware that one person has complained. Most of the other people are extremely grateful that I have at last complied with a request made by the Royal Association of Justices some years ago.
