

Legislative Council

Thursday, 26 October 1995

THE DEPUTY PRESIDENT (Hon Barry House) took the Chair at 2.30 pm, and read prayers.

The **DEPUTY PRESIDENT**: I have taken the Chair this afternoon because the President is suffering from laryngitis and therefore has no voice.

BILLS (7) - ASSENT

Messages from the Governor received and read notifying assent to the following Bills -

1. Pay-roll Tax Amendment Bill
2. Pay-roll Tax Assessment Amendment Bill
3. Marketing of Eggs Amendment Bill
4. Stamp Amendment Bill
5. Financial Institutions (Western Australia) Amendment Bill
6. Misuse of Drugs Amendment Bill
7. Salaries and Allowances Amendment Bill

MOTION - URGENCY

*Productivity and Labour Relations, Department of, Labour Relations
Compliance Program*

THE DEPUTY PRESIDENT (Hon Barry House): The President has received the following letter -

Dear Mr President

At today's sitting, it is my intention to move under SO 72 that the House, at its rising adjourn until 9.00 am on December 25 1995 for the purpose of discussing the failure of this Government to effectively resource the Labour Relations Compliance Program of the Department of Productivity and Labour Relations resulting in a highly unsatisfactory delivery of service to Western Australian workers.

Yours sincerely

Alannah MacTiernan MLC
East Metropolitan

For the Council to entertain this motion it will be necessary for at least four members to indicate their support.

[At least four members rose in their places.]

HON A.J.G. MacTIERNAN (East Metropolitan) [2.39 pm]: I move -

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

I wish to draw the attention of the House to some profound problems within the administration of the Department of Productivity and Labour Relations and, in particular, to problems with the labour relations compliance inspection and advisory services branch. There is little doubt that the performance of this crucial unit, which is charged with responsibility for enforcing not only awards but also workplace agreements, can be described only as disgraceful. In saying that I am not concluding that that is necessarily the fault of the individual officers involved. It certainly would seem that at least one experienced and competent officer has been shipped out at the instigation of the Chamber of Commerce and Industry of Western Australia after the chamber complained about that

officer's diligence. More importantly, it seems that the unit has been deliberately or recklessly underresourced, notwithstanding very clear evidence of underperformance of that branch.

It is clear that the priority of the Department of Productivity and Labour Relations, under the direction of Minister Graham Kierath, has been to block the implementation of wage case decisions. Some extraordinary actions have been taken under the aegis of this department involving the grant of the second \$8 to employees. Of course, we had the absurd spectacle of this Government, as the employer, opposing the grant of the second \$8 while, at the same time and for the very same application, private sector employers were agreeing to it. In the Budget papers the department boasted about the actions it was taking to appeal the various stages of applications made by unions to seek coverage of federal awards. By its own admission, it has been monumentally unsuccessful in that activity. Nevertheless, it is continuing to focus an enormous amount of its resources and managerial energy on this activity. The department has seen fit to prosecute a number of imagined conspiracies between construction companies and unions but to date all those cases have been unsuccessful. This is the sort of activity the Government is directing the department towards. It is an activity that could be described as union bashing. It is quite clear from these activities that the Government's aim is not to look after the individual Western Australian worker, as it claims, but rather to destroy the union movement. The industrial unrest which the Minister for Labour Relations has inflicted on this State is sufficient to warrant his removal from his post. That is the view of not only the Opposition and the union movement, but also employers, particularly in the mining sector, from whom there has been an increasing chorus expressing the same view.

Hon Mark Nevill: And certainly some of his colleagues in the coalition.

Hon A.J.G. MacTIERNAN: Yes, they certainly appear to share that view. The Minister's poor performance has generally focused on the industrial chaos he has generated, including the threat he has created to the continuation of the development of harmonious industrial relations in this State. However, that is not the only basis on which the Minister should be called to account. Very clearly, the maladministration of the Department of Productivity and Labour Relations independently calls into question his capacity to successfully perform his job as Minister for Labour Relations. It has not been easy to obtain information about the functioning of this department and I ask members opposite to take the opportunity to read the *Hansard* of the Assembly Estimates Committee debate because it illustrates the utter contempt that the Minister for Labour Relations has for Parliament and parliamentary processes. I have no doubt that many members opposite will find his performance, in which he avoided any attempt to garner accurate information about the government departments and agencies for which he has responsibility, rather embarrassing. Notwithstanding the statements made by the Minister that he was about to table the department's annual report, it has not been tabled; therefore, the Opposition has not been able to obtain a copy of it.

Opposition members have known for some time from the complaints they have received at their electorate offices and the official statistics, that the Department of Productivity and Labour Relations has been failing very badly in the area of compliance and inspection services. At page 866 of the 1995-96 Program Statements members will find a corroboration of the views that opposition members have formed. We are told that in 1994-95 an evaluation was conducted on the investigation and resolution rate of alleged breaches of awards and industrial legislation. The performance of the department in that area was found to be unsatisfactory. The Program Statements go on to say that the unsatisfactory performance resulted from an increased workload and new statutory requirements - obviously, workplace agreements. The Program Statements go on to suggest that action has been put in place to address this and it states -

Resources have been reallocated . . . to improve the rate at which alleged breaches of awards and industrial legislation are investigated and resolved.

Having had the benefit of that advice, I refer members to the detail within the Program Statements to ascertain what additional resources have been allocated. What do we find?

In fact, there have been no additional resources; indeed, there has been, in real terms, a 1 per cent decrease in the moneys allocated to staffing and a substantial decrease in capital expenditure. What is more important is that the staff level stayed exactly the same; that is, 30 full time equivalents. In 1993-94 there were 34 full time equivalents and the following year that number was reduced to 30. An evaluation was carried out which showed that the department was not performing and that additional resources would need to be allocated. However, not a single extra staff member was allocated to that task. Although the workload is increasing because of the Government's workplace agreements legislation and, possibly, minimum conditions legislation as well as other changes in the complexion of the work force, the number of officers available to assist in the enforcement of awards has decreased over the last two years. I repeat: This occurred notwithstanding there has been a review which said that the branch's performance was unsatisfactory and additional resources would need to be allocated to it.

The Program Statements go on to boast that a major achievement of the department in 1994-95 was that it -

Presented argument against approximately 20 Federal claims which sought to transfer employees from the State to the Federal industrial relations system. A high proportion have resulted in finding of industrial dispute, however, no matters are yet concluded -

It is evident from that that the Minister is playing politics in the Industrial Relations Commission while Western Australian workers' pleas for assistance are ignored.

I will now give some case studies of the negligence and ineptitude of this department. The first case involves Marlene Paskov. She first contacted the department in December 1993, almost two years ago. She complained that she had worked in a lunch bar for the previous two years and had been paid well below the award. She completed the necessary forms in early January 1994. Five months elapsed without the department having any contact with her. She telephoned the department and was told to be patient and that her file was No 450 of 1993-94 and the department was up to only file No 125 of that financial year. She was patient and she waited another two months before she rang the department. She was assured the matter was in hand and that it would go to court. Four months later she had still heard nothing; by then it was November 1994. She rang the department again and was told that the officer who had been handling her file had left, so she told her story again. It was the fourth time she had explained her situation and on each occasion she had explained it to a different officer. Again she was told she had a substantial claim but it had been delayed by staffing problems. Another six months elapsed, which takes us to May 1995. She rang the department again and finally achieved some action. A meeting was arranged with the employer. The employer said that he had a problem because all his books had been stolen. I wonder from where he got that idea. It is not the first time we have heard that "the dog ate my homework" type explanation.

Hon Peter Foss: It happened with Gordon Hill's file when the royal commission was on.

Hon A.J.G. MacTIERNAN: I think we are talking here about wages records.

Hon Peter Foss interjected.

Hon A.J.G. MacTIERNAN: Much skulduggery went on with important files belonging to Labor members being taken out of the Police Department, government agencies and members' offices. We can pursue that later. The department, possibly because its responsible Minister might have been sympathetic to that defence, was apparently prepared to accept the "dog ate my homework" line and said it could not take the matter to court. Marlene Paskov is convinced that the department has done everything to discourage her from pursuing her claim. Nearly two years since the original complaint, five people have handled it. She believes her position was severely compromised when finally she was granted a settlement conference. The officer of the department said in front of her employer that the department would not take her matter to court.

The second case concerns Michael Edwards, who resigned from his job as probationary

manager of a nursery, giving one month's notice and finding a replacement before he left. Nonetheless, his employer refused to give him the approximately \$1 200 holiday pay owed to him. Michael made his complaint to the Department of Productivity and Labour Relations in June 1994, 16 months ago. Since then he has received not one ounce of correspondence from the department and not one phone call, notwithstanding that he has phoned the department every six to eight weeks. He was told initially that his claim would take about four or five months to resolve. Sixteen months later he has got nowhere. The only time he received any correspondence was when he got a letter from the Minister after he wrote to me and c.c.'d a copy of that to the Minister, which we presume caused the Minister to be somewhat concerned. Michael hoped that the fact that one of his employers is a senior federal Liberal politician was not the cause of inaction. I assured him that that would not be the case and that it appeared to us the department was without some fear or favour in terms of being soft on employers, notwithstanding one recent prosecution.

However, as I said, overall the department shows a very poor performance. I have more cases, but I am running out of time. Since December 1993 the amount of moneys recovered through prosecutions has massively declined. Between 1 January and 30 June 1994 only \$1 830 was collected. In the next six months nothing was collected by the department through prosecutions. For the first six months of this year \$2 325 was collected. That is a massive drop in rates, even since 1991, without taking into account inflation. In all, a total of two prosecutions have been launched in the past year. In that same period the union movement, which represents about 40 per cent of the work force, took 50 prosecutions. That is a 2 500 per cent improvement on the Government's performance.

HON TOM HELM (Mining and Pastoral) [2.53 pm]: I support the motion. Members should pay attention to what has been exposed by my friend Hon Alannah MacTiernan. There has been a clear and distinct move away from the cooperative nature of industrial relations in this State; that is, a move to isolate workers and to have them either sign individual contracts or fight on their own against the might that any employer may choose to wage against them. I take members' minds back to the previous Government's record of cooperation within the trade union movement. I refer to the recognition in this State of the tripartite nature of industrial relations; that is, the employer, the employee and government agencies. Government agencies can help to enforce award provisions that can support and encourage good industrial relations. That can result in a reduced number of disputations and increased cooperation so that we as a State can move forward and share in the benefits of what this State can offer. The record is quite clear. Each and every one of us has a responsibility to see that nobody falls through safety nets or is exploited. That responsibility must be accepted, worked at and lived by within every section of the community, particularly the industrial sector. The unions, the employers and the Government have a role to play in these matters. It was clearly outlined.

However, these days, as was described by Hon Alannah MacTiernan, we are paid lip service by the government side of that responsibility triangle. The Government said in the report that it was anxious to continue the role that DOPLAR had been playing in the past, and that it was anxious to show that cooperative nature. However, Minister Kierath decided to introduce the second wave of his industrial relations legislation and that caused disputation, the day of action. It depends on what side of politics one is on whether it is seen as a success or failure. It may be only coincidental that the Premier decided after that day of action to instigate a meeting between the trade unions, DOPLAR, the Minister and him. If we wanted to be cynical we could say that this Government's unwillingness to cooperate in that tripartite nature was dangerous.

Members should not forget that not only has criticism come from the trade union movement about the effects of the second wave of industrial relations but also anxiety has been expressed by people who are not from the trade union movement. Employer groups have raised concerns, as have members of the coalition Government, about the effects of the second wave of industrial legislation. For that second wave of legislation to be more successful, the cooperation that can be provided by government agencies must

be put aside. Normally, that cooperation ensures that workers receive their just deserts and rights under award provisions and that the Government's responsibilities are carried out. If that cooperation is not given we will surely have another brick added to that wall of non-cooperation which the unions have been accused of building. In other words, if the attitude of the Minister for Labour Relations prevails, which is that by hook or by crook he will have his legislation passed, that confrontation will be exacerbated. That part of the tripartite system will not be seen to be fulfilled.

I hark back to the record of the iron ore industry. The Iron Ore Industry Consultative Council put the spotlight on the problems within the iron ore industry in its early days, during the late 1970s until the successful Labor Administration, when the number of industrial disputes reduced dramatically.

Hon Peter Foss: We have had fewer disputes since we have been in government.

Hon TOM HELM: The statistics speak for themselves, and I remind the Minister of the expression "Lies, damn lies and statistics".

Hon Peter Foss interjected.

Hon TOM HELM: The Minister should not interrupt.

People in the north west are saying that that cooperation was a result of the efforts of the three elements of the Iron Ore Industry Consultative Council - the Government, the employers and the employees. It also resulted in Robe River Iron Associates doing what it wanted - good or bad.

Hon I.D. MacLean interjected.

Hon TOM HELM: If I were the member I would keep my mouth shut. I may be saying things that he can agree with. He should be very careful.

People are saying that because of the nature of the council, workers were somewhat disheartened by the cooperative nature of the trade unions. The unions were having problems explaining their changed nature, because the Government was meeting its responsibilities through the activities of the Department of Productivity and Labour Relations while the employers were being cooperative in a wholistic sense. However, we continue to hear from the fatheads on the other side of the Chamber that unions are nice people as long as they do what they do. Unions would not wait to go to court to fight for workers' rights. We would man the barricades with pickaxe handles. We would achieve workers' rights through our strength and the loss of our blood. No-one else would do that for us. It appears that because the unions have taken a backward step, because the unions now see that the Government can deliver, they no longer take a confrontationist attitude and are allowing government agencies to play their part.

In this case, Hon Alannah MacTiernan has explained the whole situation to members opposite. She has explained that that element has gone. If members opposite want to have a blue, here is how to do it. People do not lose popularity in the opinion polls by doing nothing. People lose their popularity, and lose elections - as members opposite will do in 1997 - because members of the public are affected by philosophical backwardness. They are affected by the inability to learn from history. Members opposite may wish the unions to do the job on their terms; that is, to go back to the 1950s, the 1960s and the 1970s. I and other people were brought up in that era. We do not mind having a blue. We do not mind if the Government brings out the troops and forces the miners down the pit - as happened with the Tolpuddle Martyrs and the Peterloo massacres. That is no problem for me. However, other people belong to the twentieth century. They can see the beauty in cooperation. They can see the wages on the table every week. Members opposite cannot see that. Members opposite think that the unions must be given a hiding; that it is someone else's responsibility to enforce award provisions.

Hon I.D. MacLean interjected.

The DEPUTY PRESIDENT (Hon Barry House): Order! The member is out of order.

Hon TOM HELM: Not only that, he is mentally deranged.

The facts and figures have been presented. Hon Alannah MacTiernan could not have made it clearer. If the element of cooperation is taken away, and members opposite seek confrontation, some of us are willing to deliver. That would not be a good thing and I would not enjoy it as I have enjoyed it in the past.

HON SAM PIANTADOSI (North Metropolitan) [3.03 pm]: I welcome any interjections from members opposite.

The DEPUTY PRESIDENT: I will not.

Hon SAM PIANTADOSI: Interjections give a good indication of the state of mind of members opposite, and how they arrive at their decisions. It is obvious after the comments made by Hon Alannah MacTiernan and Hon Tom Helm about the legislation, and after the interjections, that this motion is very necessary.

I wish to talk about another problem faced by an individual seeking assistance from the Department of Productivity and Labour Relations. The comments made to her by an officer at that department are interesting. Ms Fiona Rosenthal is a tour reservations clerk. When she gave two weeks' notice and resigned she was owed four weeks' annual leave, 13 hours' unpaid wages, and her voluntary superannuation contributions which were not paid into a fund. She complained to the department on 1 November 1994. Twelve months later no action has been taken. She has made dozens of calls to the department over the last year but the message to her was, "Don't call us; we'll call you". The department could not deal with her case because its officers are overworked. The situation is ironical: It was suggested that she should approach a member of Parliament to elicit some support to appoint additional employees at the department because it is considered that the department is understaffed. I am sure that many people like Fiona face that sort of situation. The department puts up a smokescreen. However, only a small number of people have the courage to pick up the telephone and speak to an officer whom they do not know.

I would like the Minister to indicate how many people of non-English speaking background have been able to speak to officers at the department. When the first industrial relations changes occurred, certain promises were made: A section would be established in the department where non-English speaking people could be assisted. The Minister made that statement in this House. Subsequently I went into the corridor and telephoned the department, speaking in Italian and asking for assistance. I received no assistance. The officers at the department could not understand me. They asked me to find an interpreter to speak in English. I tried that exercise and discovered I could not obtain any assistance.

Members may recall that the same week I undertook another exercise in this House. I outlined the problems that non-English speaking people have. I rose to my feet and began my speech in Italian. Hon Bill Stretch was in the Chair. He called me to order. In the end he became confused. He gestured with his hands to try to tell me to sit down - as if he believed that I could not understand what he was saying. I took that action to illustrate the difficulties faced by people when seeking assistance from the department. If Fiona Rosenthal, and many other people who speak English as a first language have difficulties communicating, what hope is there for 45 per cent of the work force whose first language is not English? I will not canvass the areas covered by Hon Tom Helm and Hon Alannah MacTiernan relating to the difficulties that the mainstream community has in communicating, or the efforts of the department when facing the fact that resources have been reduced resulting in fewer cases being addressed. These non-English speaking people have no chance.

I refer now to an article in *The West Australian* today headed "Mean boss fined over workers' pay". The employer, Salvatore Massara, is well-known to me.

Hon Peter Foss: Is he the boss or the employee?

Hon SAM PIANTADOSI: He is the boss. The article refers to 65 breaches of the award. Can the Minister indicate the term during which the breaches occurred? The article

relates to one contract cleaner, one employer. Many employers operate in this area, and perhaps if we consider them individually -

Hon Peter Foss: Was he prosecuted?

Hon SAM PIANTADOSI: He was prosecuted by the Department of Productivity and Labour Relations, and the case was heard by Magistrate Paul Heany. I would like to know during what time span the breaches occurred and how long they took to come to court. I have known this person for several years and I have known about these breaches for some time. This is not the first occasion. A lot of known employers continually breach the award, yet nothing is done. In the past, these breaches would have been brought to the attention of the Industrial Relations Commission and handled in front of a magistrate, with the union's involvement, but the Government's actions over the last two years have dealt a deliberate blow to the union movement in an attempt to destroy it and, therefore, the representation to which many people have access. It is obvious that the changes which the Government has made are not working. I am sure that if we considered more data, we would come up with many more Salvatore Massaras in not only the cleaning industry but other industries; however, in the past the Industrial Relations Commission has been the only body which has been able to prosecute these employers successfully. The Minister for Labour Relations was prosecuted by the union. He was caught out by the union. I can see why he wants to run down the department, because it is against his interests. He may still have shares in cleaning companies -

Point of Order

Hon PETER FOSS: Mr Deputy President, I do not think the member can make those sorts of allegations. He is accusing the Minister for Labour Relations of a conflict of interest, and although he preceded it with the word "may", I think he is accusing the Minister of certain behaviour, and that is not allowed.

The DEPUTY PRESIDENT (Hon Barry House): I think it is outside the scope of the motion and the member should stick to the motion before the House.

Debate Resumed

Hon SAM PIANTADOSI: It is no secret that the Minister was in the cleaning industry, and even Hon Peter Foss would have to agree with that. It is obvious that in the past, the Minister has been prosecuted for the very thing that I have spoken about in regard to the employer who is mentioned in today's paper for breaches of the award. That is a fact.

Point of Order

Hon PETER FOSS: I do not understand that to be a fact. I believe the Minister does not agree with that. In any event, the member is not allowed to make those statements in this House.

Hon SAM PIANTADOSI: As you may be aware, Mr Deputy President, my union was the Miscellaneous Workers Union, and I was there when this instance took place some years ago.

Deputy President's Ruling

The DEPUTY PRESIDENT: Order! The situation is that members cannot cast aspersions upon members of another place. If the member wishes to pursue that course of action, he must do it by moving a substantive motion. It is well and truly outside the scope of this motion.

Debate Resumed

Hon SAM PIANTADOSI: That may be so, but I was involved with the Miscellaneous Workers Union, and we covered cleaners. We prosecuted a number of employers, and one of those employers was Mr Kierath.

HON PETER FOSS (East Metropolitan - Minister for the Environment) [3.14 pm]: Unfortunately, I have not been briefed to reply with regard to the cases of Marlene Paskov, Michael Edwards and Fiona Rosenthal, but I am concerned to hear the remarks

that have been made by members opposite, and I will ensure that a copy of *Hansard* with their statements regarding those cases is forwarded to the Minister for Labour Relations. Obviously, it is important also to hear the Department of Productivity and Labour Relations' side of it, but what members have said does concern me and I will ensure that those matters are drawn to the attention of the Minister.

Much of this debate has proceeded on a misunderstanding about the facts. Those members of this place who are fans of Lewis Carroll may recall a poem called *The Hunting of the Snark*, in which there was a person called the bell man, who was a rather large gentleman with a funny hat who used to say that what he says three times is true. I think this must be a problem with large men with funny hats because the statement about the supposed gutting of the industrial relations system and its inspectorate appears to have come from Deputy Prime Minister Kim Beazley, who said recently -

Look, millions of dollars are being lost by West Australian workers in underpayment of wages. In the old days when they had the state industrial inspectorate, before it was gutted by Kierath, there was something like \$6 million worth of unpaid wages that were secured by that inspectorate process. The inspectorate is gutted, and now the unions' rights to go on to the workplace, to find people being underpaid . . . is being, in effect, removed . . .

It is interesting that despite the fact that the member opposite made those statements three times, they are not true. Since we have come into office, we have enhanced the resources of the inspectorate. An additional six full time equivalents have been allocated to the branch since 30 June 1994. It is true that Hon Yvonne Henderson instructed the department to increase by two the number of inquiry officers in Wage Line, but she did not support that instruction by the allocation of any additional FTEs. She recognised the need for additional people, but it is pleasing that it was this Government which added six FTEs.

Hon A.J.G. MacTiernan: When was that?

Hon PETER FOSS: Since 30 June 1994.

Hon A.J.G. MacTiernan: So how can we get a situation where we have gone from 34 FTEs to 30 FTEs?

Hon PETER FOSS: I think they have been allocated to that area. I have it on good authority that an additional six FTEs have been allocated to the branch since 30 June 1994. Hon Alannah MacTiernan may disagree with that -

Hon A.J.G. MacTiernan: It is in the Budget papers.

Hon PETER FOSS: I understand that there are an additional six FTEs in that area.

Hon Tom Helm interjected.

Hon PETER FOSS: For the benefit of Hon Tom Helm, two industrial inspectors have been appointed at Karratha and Kalgoorlie, who for the first time are occupied on industrial issues rather than a mix of industrial and consumer matters. Hon Tom Helm would know that under Hon Yvonne Henderson, those people shared their responsibilities between consumer affairs and industrial matters. That has increased the level of service to employers and employees in those regions.

The point made by Hon Kim Beazley that \$6m had been recovered prior to the coming into office of the Liberal Government is inconsistent with the department's published figures, and Hon Alannah MacTiernan's statement about the situation in 1987, which was the year that she chose -

Hon A.J.G. MacTiernan: 1991.

Hon PETER FOSS: Was it? We will deal with 1991; even better. In 1991-92, the amount of money recovered was \$340 000. The amount recovered in 1994-95 was \$425 851; in 1993-94, \$650 000; in 1992-93, \$560 000; in 1991-92, \$340 000; as I mentioned, in 1990-91, \$376 823; in 1989-90, \$450 150; in 1988-89, \$382 131; in 1987-88, \$385 067; and in 1986-87, \$317 816. It is probably fair to say that even though

the supposed facts were stated by Hon Alannah MacTiernan once - and I will excuse her for not having stated them twice more in order to ensure that they were really the facts - they demonstrate that the figures which she used were not correct. More importantly, the amount that is recovered depends upon not only the diligence of the officers and the number of people whom they fine, but also the amount involved in any particular case.

The officers may be extremely diligent and pick up small amounts, or they may pick up only large amounts. The effectiveness is not a matter of relationship with the amount recovered. The department certainly has no influence over the amount recovered; it depends on the amount that has not been paid and the amount the person has complained about. In some circumstances it may be said that a drop in the amount recovered shows an increase in the effectiveness.

Hon A.J.G. MacTiernan: Come off it, Minister!

Hon PETER FOSS: I will give Hon Alannah MacTiernan an example.

Hon A.J.G. MacTiernan: That is not what the department's officers say. That is fanciful.

Hon PETER FOSS: I am not suggesting that, but giving an example. In crime the effectiveness of policemen is judged by the drop in crime. However, Hon Alannah MacTiernan wants to judge the effectiveness of the inspectorate not by the drop in money that is not being paid, but by the increase. I am not saying that Hon Alannah MacTiernan should necessarily assume that, but that her logic is a tad flawed. In fact, she is wrong. The figures for 1994-95 indicate an increase. On her measure, that is a measure of improvement. By all means Hon Alannah MacTiernan may quote these statistics, but she should at least get them right and respect the fact that her logic is a tad flawed. I am sure Hon Alannah MacTiernan would agree with me that if we had the most effective enforcement mechanism in the world so that anyone who did not pay was instantly picked up by the inspectorate and prosecuted and the money was recovered, the ideal result of that would be the elimination of this practice entirely. I am not suggesting that is the case. I do not think Hon Alannah MacTiernan can say, as she has, that the more money recovered, the more it indicates success.

Hon Sam Piantadosi: What resources are there that you promised?

Hon PETER FOSS: Unfortunately I was not aware that Hon Sam Piantadosi would raise that point. Off hand, not being the Minister -

Hon Sam Piantadosi: You promised services at the time you put the legislation through this place.

Hon PETER FOSS: The member should keep this in mind: I am the representative Minister in this House. I am happy to find out for Hon Sam Piantadosi on his behalf -

Hon Sam Piantadosi interjected.

Hon PETER FOSS: I know all about the Department of Productivity and Labour Relations!

Hon Sam Piantadosi: You give that impression.

Hon PETER FOSS: It comes to me through the ether! I stand here as it buzzes through the air and I instantly know the facts! Come on, Mr Piantadosi! I am the representative Minister. If Hon Sam Piantadosi really wants to know something, he should tell me what the questions will be so I will have an opportunity to answer them. If he springs them on me, how on earth am I expected to know the answer off hand? I am happy to find out for Hon Sam Piantadosi; however, I must confess that, not being the Minister for Labour Relations, I do not have to know off the top of my head. I am happy to pass on, on behalf of the other Minister, any necessary information.

Hon Tom Helm says there has been a lack of cooperation. One of the important factors is this: The department has a policy of referring union members to their union for assistance on award matters. It is most appropriate that the department should do so. The department and the unions have a good relationship in that respect.

Hon A.J.G. MacTiernan: Why should union members not have access to DOPLAR?

Hon PETER FOSS: I was about to deal with that. When people want the department instead of the union to pursue the matter, which is usually because of dissatisfaction with the union service, they are not denied that; they are given the option of using the union. Members opposite have complained that the Government is trying to cut out the unions from being the most effective advocates for the workers. As soon as I tell members opposite that the Government has a policy of cooperating with the unions, they instantly complain about it. They should at least be consistent. Anybody has the right to have the inspectorate act on his behalf. In that spirit of mutual cooperation referred to by Hon Tom Helm the department attempts to refer union members to their union - nobody is denied it. It is excellent that there is that cooperation between the union and the government department.

Hon Alannah MacTiernan has come up with these delightful allegations. I do not doubt that the department is not perfect. There is not a department in this Government or any Government that is perfect. That unfortunately is one of the facts of life. It is important Hon Alannah MacTiernan has raised the matters she has. I will ensure they are considered by the Minister for Labour Relations. However, her "facts" are non-existent. The only information she has to go on is what the bell man in Canberra has to say to her. He has rung the bell; it has been decided that this issue will be part of the federal election campaign. Members opposite raise these supposedly urgent matters day by day. They deal with them pathetically, with no evidence to back up their claims. Nobody seems to get excited about the whole blooming thing. It is no wonder - it is all an illusion.

HON A.J.G. MacTIERNAN (East Metropolitan) [3.25 pm]: Even by the Minister's usual pontificating standards, that was an extraordinary performance. The justification given for the department's poor performance is that since this Government came to office, there has been this enormous sea change. Suddenly all these employers have decided to become highly ethical. That is why this department in the past year has managed only two prosecutions. Strangely enough the unions have not experienced this ethical sea change and have launched 50 prosecutions.

Hon B.K. Donaldson: They have confidence in the Government.

Hon A.J.G. MacTIERNAN: I am sure the employers have a lot of confidence in the Government; they have every confidence that this Government is not prepared to prosecute. I make passing mention of the idiocy of the Minister's statement that the Opposition is running to the tune of the Deputy Prime Minister. I have pursued this matter in this House for a good six months. I do not know how short this Minister's memory is. It has been a difficult matter to pursue because the Minister whom he represents in this place refuses to provide information. Therefore, opposition members have had to deal with whatever information they have been able to find. I will go over some of these facts, because they are facts and there can be no question about them.

Firstly, an examination of the Industrial Magistrate's records establishes fact No 1; that is, the Department of Productivity and Labour Relations, acting for 60 per cent of the work force in this State, managed two prosecutions in the last financial year while during the same period the union movement managed 50. Fact No 2 is that the Budget papers produced by the Government show that in the 1994-95 financial year the department evaluated its own performance and found that its performance was wanting. Fact No 3 is that in these Budget papers the Government made a commitment to increase the resources in the department's compliance branch. Fact No 4 is that not one additional resource was allocated by way of money or additional staff. Fact No 5 is that in 1993-94 this branch had a staff level of some 34. Notwithstanding statements made in the 1994-95 year concerning the increased workload in the department, the staffing levels did not increase by seven as the Minister claimed, but decreased by four. That decreased level continued into this financial year, notwithstanding commitments by the Government in response to findings of unsatisfactory performance.

Would the Minister care to listen, seeing as he presents himself as having an interest in the detail? If the Minister had listened closely he would have known that the figures I

presented related to the moneys recovered from prosecutions. Opposition members were forced to go to the court records and examine the amounts recovered because we were unable to get any data from the Minister for Labour Relations. As I have said, members can read Estimates Committee *Hansard* and see the most disgraceful evasion of ministerial responsibilities. The Minister has not been prepared -

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

MOTIONS - MADE ORDERS OF THE DAY

On motion without notice by Hon George Cash (Leader of the House), resolved -

That motion No 4, Workplace Agreements Amendment Regulations (No 2) 1994, Disallowance; motion No 9, Aboriginal Heritage Amendment Regulations 1995, Disallowance; and motion No 11, Supreme Court Amendment Rules (No 4) 1995, Disallowance, on today's Notice Paper be made orders of the day for the next sitting of the House.

MOTION - No 12 WITHDRAWN FROM NOTICE PAPER

On motion, by leave, by Hon Tom Helm, resolved -

That motion No 12 be withdrawn from the Notice Paper.

MOTION - No 7 WITHDRAWN FROM NOTICE PAPER

On motion, by leave, by Hon Bruce Donaldson, resolved -

That motion No 7 be withdrawn from the Notice Paper.

MUTUAL RECOGNITION (WESTERN AUSTRALIA) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon George Cash (Leader of the House), read a first time.

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the House) [3.32 pm]: I move -

That the Bill be now read a second time.

The purpose of the Bill is to enable Western Australia to enter into a scheme for the mutual recognition of regulatory standards for goods and occupations in Australia. The mutual recognition scheme first came into operation on 1 March 1993 and it is now operating in all States and Territories except Western Australia. The Premier has been concerned to ensure that there is an appropriate legislative model underpinning Western Australia's entrance into the scheme. The existing scheme could have been implemented through complementary state-territory legislation, which would have ensured state autonomy. Unfortunately, it has been based instead on commonwealth legislation - the Commonwealth's Mutual Recognition Act 1992. Some States have directly referred power to the Commonwealth and others have passed legislation adopting the commonwealth Act.

The Parliamentary Standing Committee on Uniform Legislation and Intergovernmental Agreements has given consideration to Western Australian concerns and recommended that Western Australia join the scheme by adopting the commonwealth legislation as an interim measure. Cabinet has endorsed Western Australia's entry into the scheme by adopting the commonwealth Mutual Recognition Act 1992 as it stands and operates. The Bill contains a requirement that any future amendments to the commonwealth Act be referred for consideration by the Western Australian Parliament prior to incorporation into Western Australian legislation. That will ensure that this Parliament can debate any future amendments. Due to concerns raised in the Assembly, the Bill has been amended and it now contains the full text of the commonwealth Act as a schedule to the Bill.

The Bill contains a sunset clause and will cease on 28 February 1998. The operations of

the mutual recognition scheme will be reviewed at that time to assess its impact on Western Australia. The Western Australian Government will seek to renegotiate to replace the current scheme with a states-territories mutual recognition scheme without the Commonwealth. Mutual recognition has two principal aims. The first is to remove needless artificial barriers to interstate trade in goods. The second is to remove barriers to the mobility of labour caused by regulatory differences among Australian States and Territories.

The legislation is based on two simple principles. The first is that goods which can be sold lawfully in one State or Territory may be sold freely in any other State or Territory, even though the goods may not comply with all the details of regulatory standards in the place where they are sold. That means that Western Australia's producers will have to ensure only that their products comply with the laws in the place of production. They will be able to sell their products throughout Australia without being subjected to further testing or assessment of their product. The second principle is that, if a person is registered to carry out an occupation in one State or Territory, he or she should be able to be registered and carry on the equivalent occupation in any other State or Territory. For example, a doctor who qualifies to practise in this State will also be entitled to gain acceptance to practise in every other State.

Mutual recognition will not affect Western Australia's ability to regulate the operation of businesses or the conduct of persons registered in an occupation. Its focus is on the regulation of goods at the point of sale and on entry by registered persons into equivalent occupations in another State or Territory. Laws that regulate the manner in which goods are sold, such as laws restricting the sale of certain goods to minors, or the manner in which sellers conduct their business are explicitly exempted from mutual recognition.

Provision is made for States and Territories to declare that certain goods, or laws relating to goods, can be temporarily exempted from mutual recognition on public health or environmental grounds for up to 12 months. During that time, the Intergovernmental Agreement on Mutual Recognition provides for the relevant ministerial council to consider the issue and make a determination on whether to develop and apply a uniform standard in the area under examination. Ministerial councils will therefore take on an increasingly important role in creating a common regulatory environment applicable to the Commonwealth, States and Territories. The result should be an elevation of standards in some jurisdictions. By no means will be the lowest common denominator necessarily prevail.

The mutual recognition scheme recognises that, in most cases, the differences in regulations between States and Territories are not great. There are already numerous areas where regulations have been harmonised. Nevertheless, the scheme has inbuilt safeguards to ensure the continuation of health and safety protection measures and to ensure that environmental pollution is kept at an acceptable level. In addition, the Intergovernmental Agreement on Mutual Recognition provides a State or Territory with the ability to refer a matter relating to particular goods or occupations to the appropriate ministerial council for a decision on whether to develop and apply a uniform standard. This means that if Western Australia has concerns about a product manufactured in another State or Territory, it could refer those concerns to the relevant ministerial council. Wherever possible, ministerial councils are to apply those standards accepted in international trade.

The commonwealth legislation also provides for certain permanent exemptions in relation to goods. Heads of government have agreed that the exemptions schedules should be extremely limited, focusing on those products for which a national market is undesirable. Examples include pornography, firearms and other offensive weapons, and gaming machines. Amendment of the exemptions schedules will require the unanimous agreement of all jurisdictions.

In relation to occupations, the mutual recognition principle means that a registered practitioner wishing to practise in another State can notify the local registration authority of his or her intention to seek registration in an equivalent occupation there. The local

registration authority will then have one month to process the application and to make a decision whether to grant registration. Once the notice is made and all necessary information provided, pending registration, the practitioner will be entitled to practise immediately, subject to the payment of fees and to compliance with various indemnity or insurance requirements in relation to that occupation. Conditions can be placed on the practitioner's registration in order to achieve equivalence. In addition, the interstate practitioner will be subject immediately to the disciplinary requirements and other rules of conduct in the new jurisdiction applicable to local practitioners. The Commonwealth Administrative Appeals Tribunal will hear appeals against decisions of local registration authorities who refuse permission for individuals to practise their occupations and will have the power to determine whether an occupation carried out in one jurisdiction is equivalent to that carried out in another.

The concept of mutual recognition has gained the support of Governments of all persuasions. There are clear advantages for Western Australia in joining the mutual recognition scheme. The benefits are well accepted. They include elimination of costs for businesses, increased labour mobility, greater competition and increased size of markets for both goods and services. Negotiations are currently taking place in relation to the extension of the Australian mutual recognition scheme to include New Zealand. The proposed trans-Tasman mutual recognition agreement and legislation will be examined carefully to ensure there is no adverse impact on the regulation of the State's goods and services.

Mutual recognition will generate benefit for this State, but it must be seen as just one part of the Government's overall regulation reform agenda to promote competition and reduce red tape. The Government's objective for regulatory reform is to create a new and vibrant environment for business and at the same time protect the interests of Western Australian consumers. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

MINISTERIAL STATEMENT - MINISTER FOR THE ENVIRONMENT

Metropolitan Region Scheme Major Amendments - South East Corridor South of Armadale; Stirling Regional Centre

HON PETER FOSS (East Metropolitan - Minister for the Environment) [3.41 pm] - by leave: On Tuesday, 24 October the State Government tabled further evidence of its ongoing commitment to plan for the growth of the Perth metropolitan region and maintain adequate supplies of affordable housing land. The two reports bring to 18 the number of major amendments to the metropolitan region scheme that have been tabled as part of a program introduced by the Government in 1993, aimed at bringing the MRS up to date as the regional plan for Perth.

The first of the two major amendments plans for the expansion of the existing Byford and Mundijong townsites by providing additional urban land, public open space and regional road reservations. Details of the amendment were released in April and public comment was invited over a three month period. The Western Australian Planning Commission received 148 submissions and, after consideration of the issues raised, recommended changes to a number of the amendment proposals. Land presently zoned for rural use was proposed as the site for two distinct urban communities of up to 30 000 people, which would comprise neighbourhoods of up to 5 000 people and be supported by a primary school, local shops and offices, and community facilities. The modified amendment sets aside 1 664 hectares of urban land and 1 023 ha of urban deferred land, which allows for the creation of more than 24 000 home sites. This is a significant addition to the 10 000 ha of housing land already zoned by this Government and means that, in total, more than 114 000 home sites have been created since the implementation of the major amendment program. The amendment will also see a total of 419 ha reserved for parks and recreation at different locations, including Whitby Falls, the Serpentine national park, and the Darling Range regional park.

The second amendment enhances the importance of Stirling as one of eight strategic centres in the metropolitan region, by defining the Stirling regional centre. The amendment was advertised in May, and the Western Australian Planning Commission received 23 public submissions in relation to the rezoning proposals. Following consideration of the issues raised in the comments received, the commission recommended some slight modifications to the original proposal to rezone urban and industrial land in the Stirling regional centre to a central city area zone. As a result, residential properties in the Woodlands area have now been removed from the central city area zone. The amendment paves the way for Stirling to become one of the most important centres outside the Perth city centre, providing a principal focus for commercial investment and a wide range of activities and employment. The south east corridor, south of Armadale, and Stirling regional centre major amendments are further examples of how the Government is planning for the State's future.

[Consideration of the statement made an order of the day for the next sitting.]

STANDING COMMITTEE ON LEGISLATION

Thirty-sixth Report in Relation to Sentencing Bill

Hon Derrick Tomlinson, by leave, presented the thirty-sixth report of the Standing Committee on Legislation relating to the Sentencing Bill, and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 751.]

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

PERSONAL EXPLANATION - STEPHENS, HON TOM

Apology to Minister for Finance for Reflecting on Tie

HON TOM STEPHENS (Mining and Pastoral) [4.35 pm]: I apologise to the Minister for Finance for reflecting upon his tie, which I have since discovered is a Jimmy Pike.

The DEPUTY PRESIDENT: Order! If the member wants to make a personal explanation he must seek leave.

Hon TOM STEPHENS: I hoped I would get it in just in case leave was denied.

STRATA TITLES AMENDMENT BILL

Report

Report of Committee adopted.

FREEDOM OF INFORMATION AMENDMENT BILL

Second Reading

Resumed from 19 October.

HON N.D. GRIFFITHS (East Metropolitan) [4.38 pm]: The Opposition opposes this Bill. We oppose it so that the House can note the incompetence of the Government in the manner in which it has handled this important area and the cavalier way in which it is treating the Commission on Government.

Hon N.F. Moore interjected.

Hon N.D. GRIFFITHS: I have not had a personal legislative program for freedom of information. The Minister should note that I arrived in this House on 22 May 1993. I look forward to the Minister's participation in this debate, as does my colleague, Hon John Cowdell. On page 67 of the COG report dated August 1995, recommendation 2.3.6.5 states -

There should be no extension of the sunset clause attached to schedule 1 cl 14(3) of the Freedom of Information Act 1992 (the secrecy provisions exemption) beyond 1 November 1995.

I trust that Hon Norman Moore will give this a great deal of consideration and I look forward to his participation very soon.

Hon George Cash interjected.

Hon N.D. GRIFFITHS: I know that. I do not blame him. I have a pair; that is why I am very relaxed about it. Schedule 1, clause 14(3) of the Freedom of Information Act is deleted. Last year we engaged in the reprehensible practice of passing retrospective legislation on this issue because of the Government's incompetence. We debated the then Freedom of Information Amendment Bill 1994 and the debate progressed expeditiously through this House. I recall that I was lead speaker for the Labor Party. I gave my speech to the second reading on 14 December and the Bill passed all stages on that date. It contained a clause providing that the Act would be deemed to come into operation immediately before 1 November 1994 and the Bill was dealt with by this House on 14 December 1994.

I note that the Bill has now become an Act - the Freedom of Information Amendment Act 1994; it was assented to on 5 January 1995. All of those in power participated in a process to have an Act assented to on 5 January 1995 and that Act was deemed to come into operation immediately before 1 November 1994. Of course, if that had not taken place, we would not be dealing with this measure today. It is typical of this Government's incompetence. I suppose we should be pleased that so far the point of retrospectivity has not been reached. After all, today is 26 October 1995.

Hon Peter Foss: That is right.

Hon N.D. GRIFFITHS: I am glad the Minister agrees with me. I am reassured that at least he knows something: He knows what day it is.

Hon Peter Foss: What day is it?

Hon N.D. GRIFFITHS: Now the Minister does not know what day it is. He is off the planet and he should talk to some of his mates on the back bench. I regret he is very concerned that the House did not sit yesterday.

Hon Peter Foss: I am.

Hon N.D. GRIFFITHS: That is an outrageous interjection.

Hon Peter Foss: It has caused me time problems.

Hon N.D. GRIFFITHS: I would love the people of Western Australia to hear that he is upset because it has caused him some time problems.

We are dealing with this Bill on 26 October 1995 and if it does not pass through this Parliament and receive the Royal assent by 1 November 1995, which is in a few days' time, once again members will be engaging in a retrospective process. I note that on the Supplementary Notice Paper, in the name of Hon Peter Foss, a retrospective measure to deal with this issue is contemplated. That is reprehensible in 1995 in the same way as it was reprehensible in 1994 and it is one of the reasons that the Opposition opposes this measure.

Hon J.A. Cowdell: Hon George Cash is not quite as upset as Hon Peter Foss because he got the third reading of the Strata Titles Amendment Bill through this House in half an hour.

Hon N.D. GRIFFITHS: In considering the prospective of retrospectivity - which should be a matter of concern to all members who take their duties to this House and the people of Western Australia seriously - it is important that members note the very pertinent interjection by Hon John Cowdell, particularly in the context of the bleating complaint by the Minister opposite that a day was wasted. The Opposition dealt with the Government's legislative program on 24 October expeditiously. My recollection is that

this House passed three Bills on that day. Members opposite bleat because they lack honour.

Hon N.F. Moore: Get off your high horse.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! I have just assumed the Chair and I ask either Hon Nick Griffiths or Hon John Cowdell to inform me who has the call.

Hon J.A. Cowdell: Hon Norman Moore!

The DEPUTY PRESIDENT: In that case, Hon Nick Griffiths will resume his seat.

Hon N.D. GRIFFITHS: I will in the event that Hon Norman Moore takes the floor, otherwise it would be contrary to standing orders. I currently have the floor and I anticipate that Hon Norman Moore will take the floor shortly. I look forward to listening to his comments in his normal friendly manner!

To understand the seriousness of this Bill it is appropriate for me to refer the House to some aspects of the Freedom of Information Act. Section 3(1) refers to the objects of the Act which are to enable the public to participate more effectively in governing the State and to make the persons and bodies that are responsible for state and local government more accountable to the public. I note that section 8 of the Act deals with the effect of the Freedom of Information Act on other enactments in this way: It refers to access to documents being provided despite any prohibitions or restrictions imposed by other enactments. It provides that will take place unless the enactment is expressly stated to have effect despite the Act. However, section 8(3) states that the application of subsection (1) is subject to section 14 of schedule 1 and that is what the Opposition is concerned about. Section 14(3) of the schedule states that that section and section 8(3) expire one year after commencement of section 10. Section 10 commenced on 1 November 1993 but, as I pointed out, last year this Parliament retrospectively extended that period for another year; therefore, it is due to expire at midnight on 31 October 1995.

Section 14 of the schedule deals with a number of very important areas which are justifiably the subject of exemption. The Opposition's concern is whether the exemption should be provided in the manner in which it is or whether it should arise by operation of freedom of information principles generally. I suggest that is the kernel of the Commission on Government's argument. In raising that I am not suggesting there is not merit to the contrary, but merely pointing out that the COG has given the matter due consideration but it does not appear that the Government has done that. That is the second reason the Opposition opposes this measure.

I briefly reiterate that in opposing the measure I am not suggesting that the matters contained in section 167(1)(a), (1)(c), (2)(a) and (2)(b) of the Equal Opportunity Act, sections 64(2)(a), (2)(b) or (3) of the Legal Aid Commission Act nor section 23(1) of the Parliamentary Commissions Act should not be exempt. It is appropriate to refer once again to the arguments put by COG. To do that, I refer to pages 65, 66 and 67 of the document I identified earlier. In its consideration of the matter the COG emphasised that the legislation is designed to give the public a general right of access to government information. It points out that it would seem to be difficult to reconcile that with secrecy provisions currently in operation because such provisions impose quite onerous duties of nondisclosure.

Sometimes, because of the costs involved in obtaining information, people refer to it as freedom from information legislation, but I do not want to be cynical. As you well know, Mr Deputy President, I am not cynical. Thank you for nodding. It points out that most freedom of information legislation in Australia has a specific exemption for material the disclosure of which would be prohibited by a secrecy provision in another enactment. It refers to Western Australian legislation, namely clause 14 of the first schedule of the Freedom of Information Act. It notes the submission of the Parliamentary Commissioner for Administrative Investigations who argued for the retention of this specific exemption. It also notes the submission from the Legal Aid Commission of Western Australia to the effect that the commission either be added as an exempt agency or the exemption, which

applies to section 64 of the Legal Aid Commission Act under clause 14 of schedule 1, be extended indefinitely.

It further notes the submission from the Information Commissioner that the exemptions contained elsewhere in schedule 1 to the Freedom of Information Act sufficiently address the legitimate interests which those secrecy provisions are designed to protect. It is that submission which the Commission on Government upheld. However, the Commission on Government has gone further than just noting and agreeing with the submission of the Information Commissioner. It points out that the Australian Law Reform Commission and the Administrative Review Council are currently reviewing the federal legislation and, in a recent discussion paper, they proposed that secrecy provision exemptions in the federal Act should be amended so that it has effect three years from the date of the enactment. They came to that view after considering that secrecy provisions run counter to FOI legislation and that they were unnecessary in federal legislation if the exemptions in the Freedom of Information Act protect all interests that deserve to be protected. The essence is, where should the protection lie? Should it lie by reference to a specific piece, or in this case pieces, of legislation or should it lie in the freedom of information regime? The Commission on Government concluded that it was persuaded by the arguments advanced by the Information Commissioner and the proposals made by the Australian Law Reform Commission with respect to the federal FOI legislation. It went on to say that generally it considered that access should be governed solely by FOI legislation and that the exemption provisions in that legislation were sufficiently broad to cover all the interests currently protected by secrecy provisions.

The Opposition is opposed to this Bill today because it is concerned that, once again, the Government is teetering on the brink of retrospectivity as a result of its gross mismanagement. The Opposition is opposed to this measure today because of what in practice is this Government's cavalier disregard of the considered views of the Commission on Government.

HON J.A. COWDELL (South West) [4.55 pm]: As Nick Griffiths so eloquently pointed out - one can hardly follow him in this regard -

Hon Peter Foss: I could not follow him either.

Hon N.D. Griffiths: The Minister is wearing one of his funny hats again!

Hon J.A. COWDELL: The Opposition opposes this Bill. It seems to have been a vintage week for the Government, starting of course on Tuesday with the funeral of the proposals for parliamentary democracy where we saw a quite disgraceful report by the majority of the parliamentary committee.

Hon N.D. Griffiths: The minority report was very well written.

Hon J.A. COWDELL: That report dealt with 10 of the 13 recommendations pertaining to chapters 8 and 9 of the COG report. At least that advice was from a committee and the House may choose to ignore it. On Wednesday we were involved in another funeral and today we are looking at an attempt to bury openness in government, in particular recommendation 6, which falls under chapter 2.

Hon N.D. Griffiths: Do you recall that this item was No 7 on the Notice Paper on 24 October?

Hon J.A. COWDELL: I do not, but now that Hon Nick Griffiths has acquainted me with that I am fully apprised of it.

Before us is a formal Bill proposed by the Government, the explicit purpose of which is to follow recommendation 6 of the Commission on Government's report. The removal of the sunset clause is the direct repudiation of the proposal that freedom of information not pertain to certain categories of information. This Bill is entirely in keeping with the Government's actions of recent times.

Hon N.D. Griffiths: Or inaction in this case.

Hon J.A. COWDELL: Yes. However, we need to refer, as did Hon Nick Griffiths, to the first report of the COG. The commissioners propose six reasons why, on balance -

Hon Peter Foss: On balance is it?

Hon N.D. Griffiths: Balance is something you do not understand.

Hon J.A. COWDELL: - their recommendation should prevail. I remind members, certainly on the government side who have decided to override this recommendation, of the six reasons advanced. The first was the general concept with respect to there being too much secrecy in our system. The commissioners state -

As we have stated previously, FOI legislation is designed to give the public a general right of access to government information. It would seem to be difficult to reconcile that statutory right with the numerous secrecy provisions which are currently in operation. Such provisions impose quite onerous duties of non-disclosure . . .

In the Western Australian FOI model, this exemption preserves the operation of secrecy provisions which are found in only three specified Acts: the *Equal Opportunity Act 1984*, the *Legal Aid Commission Act 1976*, and the *Parliamentary Commissioner Act 1971* . . .

The commissioners start off with the general position of concern. They then canvass other reasons that the sunset clause which is being terminated here should cease to exist. They refer to the evidence of the Information Commissioner. They quote the commissioner -

. . . it is the view of the Information Commissioner that the exemptions contained elsewhere in Schedule 1 of the FOI Act sufficiently address the legitimate interests which the secrecy provisions are designed to protect.

They refer to the commissioner's advice, and to the general situation.

Hon Peter Foss: Do they really address the Parliamentary Commissioner's objections?

Hon J.A. COWDELL: I will get to that.

Hon Peter Foss: I am glad.

Hon J.A. COWDELL: The commissioners then refer to the satisfactory operation of the Queensland model, and state -

Neither the *Parliamentary Commissioner Act 1974* (Qld) nor the *Legal Aid Act 1978* (Qld) was recommended for inclusion in the Schedule (Qld Law Reform Commission, 1994).

That applies to the inclusion that is proposed here. The commissioners advance the proposition that this situation is adequately catered for elsewhere, without having the schedule protection that is referred to here. With respect to the Queensland situation, the commissioners state -

. . . they should not be protected under this provision but should 'fend for themselves' under the more general provisions in the Queensland FOI legislation . . .

That is the decision made by the Queensland Law Reform Commission in 1994. The commissioners advanced that this is suitable in the Western Australian instance as well. Members would be aware there are adequate protections, both in terms of other legislation and the FOI Act, where other secrecy provisions refer to exemptions to prevent the release of certain material; that is, personal information which covers the instance where the Ombudsman may circulate a draft report or material being sought as part of the deliberative process and that is a general category of exemption dealing with confidential communications. A level of protection exists without this additional one.

In the fifth reason that the commissioners on government have considered in their deliberations, they refer to the federal initiatives going in the opposite direction. They state -

The Australian Law Reform Commission and the Administrative Review Council are currently reviewing the federal FOI legislation.

They propose that the secrecy provision exemptions in the federal Act should be amended so that they cease to have effect three years from the date of the amendment. They consider that secrecy provisions similar to those here run counter to the FOI legislation. They propose that, in federal terms, the initiative should go in exactly the opposite way to that which we are proposing. As Hon Nick Griffiths stated, they came to the conclusion that they were persuaded by the argument of the Information Commissioner and the proposals of the Australian Law Reform Commission in respect of the federal FOI legislation. They state -

Generally we consider that access should be governed solely by federal FOI legislation, and that the exemption provisions in that legislation are sufficiently broad to protect all the interests currently protected by secrecy provisions.

That is, without resort to schedule 1 clause 14(3). I took note of the second reading speech in which the Minister stated -

With the advantage of that additional time, the agencies concerned have determined that those exemptions are necessary, and that removal of the exemptions would jeopardise the effective operation of the agencies concerned and, in particular, their clients' legitimate expectations of confidentiality.

The commissioners on government considered that situation and came to a contrary view from that of the individual agencies concerned looking after their own secrecy provisions. Indeed, it would be surprising for any of the individual agencies to come forward and propose more openness. That is the exception, rather than the rule.

The second reading speech refers to advice from the Information Commissioner and states -

The amendment has been requested by the agencies affected, and the Information Commissioner, who has been consulted about this amendment, does not object to it.

That stands in stark contrast to the quote in the Commission on Government report. I understand that the Information Commissioner was generously provided with a copy of the second reading speech and the Bill from the other place. It was taken that as the Information Commissioner did not respond, she therefore approved of the Government's legislation. The fact that she did not object was taken as approval.

There is a claim in the second reading speech that the Information Commissioner approves of this action which is in direct conflict with the quote from the Information Commissioner used to bolster the COG case. It would be interesting to establish who had the more substantial discussions with the Information Commissioner in this regard. I suggest that her extensive discussions with the Commission on Government would be a more preferable guide than her failure to respond to a copy of a Bill and a second reading speech from the Attorney General. This Bill is an example of the Government's scant regard for our committee system. Recommendation 6, which pertains directly to and is in direct contradiction to this Bill, is before the parliamentary committee on COG at the moment. We will receive sage advice when the committee delivers its report some time in the next week or so, but this House will have dealt with the matter before its own committee can report on the matter.

For essentially the six reasons outlined by the Commission on Government in its report, the Opposition opposes this Bill. We note in passing that the Government is at least consistent in its introduction of this Bill in that it is a Bill that moves to directly negate a proposal by the Commission on Government, and that the Government has been and is becoming increasingly consistent on this score in diametrically opposing the proposals of the Commission on Government.

Debate adjourned to a later stage of the sitting, on motion by Hon Peter Foss (Minister for the Environment).

[Continued next page.]

SITTINGS OF THE HOUSE - EXTENDED AFTER 6.00 PM

Thursday, 26 October

HON PETER FOSS (East Metropolitan - Minister for the Environment) [5.12 pm]: I move -

That the House continue to sit beyond 6.00 pm.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [5.13 pm]: I understand the Government's difficulty. We will all be in difficulty also in attempting to secure our members. We may not need to sit beyond 6.00 pm. I hope we will be able to negotiate the situation so that we can rise at 6.00 pm. The Minister will need leave later to progress this Bill through all remaining stages.

Hon Peter Foss: That is right.

Hon JOHN HALDEN: I am not in a position to grant that leave. The Minister should know that now. I have advised his leader -

The **DEPUTY PRESIDENT** (Hon Derrick Tomlinson): Order! We will debate that matter when the Minister moves that way.

Hon JOHN HALDEN: I am trying to assist. I hope we can negotiate. I am happy to be involved in negotiations. I hope we do not need to sit beyond 6.00 pm. Having given my advice, I do not think there is any need to do so.

Question put and passed.

FREEDOM OF INFORMATION AMENDMENT BILL

Second Reading

Resumed from an earlier stage of the sitting.

HON J.A. SCOTT (South Metropolitan) [5.14 pm]: I have concerns about the failure of the Government to take on board the recommendations of the Commission on Government on this Bill. I believe sufficient safeguards exist for agencies seeking exemption under the legislation to protect them in the circumstances about which they have concerns. All government agencies have some facility to not provide information if it is deemed to be damaging, or sought for unfair reasons or to ensure some gain by an individual at the expense of, say, a person who has given evidence, and so on. The current legislation provides a facility for exemptions to be granted in special cases, and for both parties to go to appeal. I do not think we should provide a let out for any agency. We seek fair and open government, and that applies to all government agencies. I oppose secrecy provisions for any department.

HON TOM HELM (Mining and Pastoral) [5.16 pm]: I oppose the Bill. In so doing, I remind the House that the citizens of this State experienced a lot of trauma preceding the appointment of the Commission on Government. We held an inquiry into WA Inc, which resulted in the appointment of the Commission on Government. It appears that once again we are about to ignore the advice of people appointed to ensure the so-called excesses of the 1980s are not repeated.

When government members were the Opposition, one of their major accusations was that the Labor Government did not have the ability to hold the Executive or government departments and agencies to account. We have appointed people to address matters raised by the Royal Commission into Commercial Activities of Government and Other Matters. Those people, who make up the Commission on Government, are advising us to go in one direction, but the Government is refusing to take that advice. That flies in the face of the recommendations which the Labor Party consider to be very important for the people of this State, for the accountability of the Executive and members in both Houses. I can do no better than cite the Leader of the Opposition's address to the Western Australian Branch of the Australian Labor Party at its conference on 1 October 1995. When addressing accountability, Mr McGinty perhaps was referring to another matter. However, his comments will give us an idea of the reasons the Labor Party opposes this Bill, and why we on this side feel so strongly about it. The address reads -

Delegates, I don't know what it will take for Richard Court to learn the lessons of the 1980s.

We've learnt from the 1980s and understand that accountability and integrity is everything in public office. It appears that Premier Court has learnt nothing. He continues to dodge and deceive over the scandal that is Wanneroo Inc.

I give a commitment: We will pursue this Government until it listens to the people and establishes an open and wide-ranging inquiry into this criminal affair.

He was referring to WA Inc. He continues -

We have already committed ourselves to implementing all the recommendations of the Royal Commission. We have also embraced the overwhelming bulk of the recommendations from the Commission on Government's to give Western Australia a model system of accountable Government.

It goes on to refer to one-vote-one-value and other aspects of that method of accountability. Members would be ill-advised to pass this legislation, given those lessons and the damage that was caused. It seems that we are following the pattern. The pattern has been set in that the recommendations of the Commission on Government are largely being ignored. Again, I emphasize that point by quoting from the fourth report of the Joint Standing Committee on the Commission on Government that was tabled recently in this House. The report is on the recommendations contained in chapters 8 and 9 of the first report of the Commission on Government. It deals substantially with electoral boundaries. Out of the 13 recommendations from the Commission on Government the joint standing committee could agree substantially with only three of the matters that were put before it. It had problems with the bulk of the recommendations to such an extent that a minority report was handed down. Again, the minority report substantially relies upon the findings of the Commission on Government. It states -

The Minority notes that the Commission on Government has provided details and specific recommendations based upon the agenda set by the Royal Commissioners.

We believe that the Parliament cannot lightly ignore the recommendations contained in the Commission on Government Report. They are a reflection of what amounts to two major Commissions of Inquiry into our political system. In only the most exceptional circumstances and on the basis of the most compelling argument should parliament set aside any of the recommendations.

Hon Peter Foss: Why?

Hon TOM HELM: If the Minister reads the speech of the Attorney General in another place on this matter and the debate that took place, he will see that there is some confusion, to put it kindly, about the interpretation of advice the Attorney General may have received. It states in one instance that she is comforted by the annual report of the Ombudsman that asks for the sunset clause and certain aspects of the secrecy provisions from which it should be exempt. Two different interpretations are put on that, and advice was received from the Commission on Government on the sunset clause in clause 14(3) of schedule 1. The minority report states further -

The Minority notes with grave concern, however, that the Parliamentary Committee has in a haphazard and pre-emptory fashion set aside the findings of the Commission on Government. Of the 13 Commission on Government recommendations considered by the parliamentary committee in this its fourth Report, ten are rejected in whole or part.

There is no doubt about the provision of freedom of information and how people can get it. The House should take some notice of Hon Nick Griffiths' remarks when he advised us that although he did not wish to be cynical, because of the difficulties arising out of the freedom of information legislation and the cost of getting the information people seem to require, it could be suggested that it is freedom from information legislation rather than freedom of information legislation. We must take a serious look at the

direction in which we are going. It is not a matter of having a philosophical debate about the issue. It is a message from the Commission on Government that we should take heed of; namely, that it is taking into account the royal commissioners' view on matters such as this.

When I was on the Treasury bench I felt embarrassed at the abuse thrown from the then Opposition when the answer to a question was that commercially confidential information was involved, and the Minister handling the matter could not reply to inquiries from the then Opposition - now the coalition Government. That sort of response to questions and inquiries is coming home to haunt the coalition Government. I still hear that some matters have commercial confidentiality on which the Ministers and agencies cannot respond. If that is the track we are going down, where will we end up in a couple of years' time when the mistakes of the eighties have not been acted upon - when we have not learnt from the advice we paid so dearly for by the Royal Commission into Commercial Activities of Government and Other Matters; when that advice came down and was viewed in detail by the Commission on Government; when recommendations it gave as its considered view of the concerns were raised by the Commission on Government; and when the \$30m the royal commission cost results in the Executive through the government benches ignoring those recommendations and asking the Opposition to do the same? There is no way opposition members can sit back and see those recommendations ignored, or in some cases amended, particularly as we were the participants, and in some quarters could be described as the guilty party, in the eighties when the supposed excesses took place. As Jim McGinty, the Leader of the Labor Party in this State, told us at the conference: Those activities that were highlighted by the royal commission were the reason we lost the election.

We were not necessarily talking about the price in dollar terms. We were not talking about the mistakes which were highlighted by the royal commission. We were talking about the price that we paid at the ballot box. Not in a million years can anyone suggest that the people on the government benches now are better than we are. No-one in their right mind could say that those who occupy the Treasury bench now have better skills or credibility or are better in any sense than people on the opposition benches. That is the price we, as a political party, paid for the events of the 1980s.

Hon Derrick Tomlinson: What about the accumulation of state debt?

Hon TOM HELM: That is still going on. If we going to discuss that, we should have a different motion and a different Bill before us. We must try to focus on the Bill, which ignores the recommendations of the Commission on Government. We can only say that the Bill thumbs its nose at the lessons of the 1980s.

I am sure that Hon Derrick Tomlinson can recognise the lessons of history. Jim McGinty quite strongly and forcefully put that message to us at our state conference. He pointed out the reasons why we will continue to put out minority reports. We will continue to push for the recommendations to be adhered to unless there is something inherently wrong with them or we can demonstrate that the evidence which was heard was flawed. We will do that unless they have reached conclusions which the evidence suggests they should not have reached. We will continue to push for those recommendations to be implemented.

We have a crying need not to revisit the 1980s. If we could just sit down and consider what we are being asked to do, it would be clear that we cannot continue to ask people of goodwill, people who are trying to act in the best interests of our State - and in this regard I am talking about Jack Gregor, the Chairman of the Commission on Government, whose record is without equal - to do that work and then, once they have done it, ignore what they have said. If anyone else is asked to do that task, they will be reluctant to do it.

I must emphasise the fact that it is important for the House to reconsider the Bill and for it to agree with the recommendations of the Commission on Government and reject the contents of the Bill.

HON PETER FOSS (East Metropolitan - Minister for the Environment) [5.33 pm]: I

must make it clear that the Government has absolutely no personal interest in the exemptions. Let us consider who is the subject of those exemptions. The Parliamentary Commissioner for Administrative Investigations is included, and he is an officer of Parliament and not of the Government. He has made a request. The second body involved is the Equal Opportunity Commission. That is an independent office over which we have absolutely no control. The third body is the Legal Aid Commission, which is again an independent body over which we have no control.

The statement that this is typical of the Government trying to prevent openness in government is patent nonsense. Anyone involved in government must realise that this is totally immaterial from the point of view of our conduct while in government. The Bill is before us simply because of the requests which have been made by those independent bodies that the change be made. The number of independent people involved exceeds the number of people in the Commission on Government. If we are to suddenly place an enormous amount of faith in people who are not members of Parliament because they happen to be independent, perhaps we should tot up the number of people involved. When we do that, we find that the members of the Legal Aid Commission, the Equal Opportunity Commission and the Parliamentary Commissioner for Administrative Investigations, exceed the membership of COG. While I have the greatest respect for the members of COG, and although I agree with the sentiment that their views should be given the greatest respect and accorded considerable note, when someone is appointed to a body like the Commission on Government, that does not suddenly give that person divine inspiration. It does not mean that that person has the answer when no-one else has it. Nor does it remove the responsibilities of this Parliament to legislate appropriately.

This is almost an argument in semantics. On one side, COG is saying that we do not need the amendments because they are provided for in the general exceptions, while on the other side, the three officers are saying that we should not worry about it because the exemptions exist under general exemptions. They are both saying the same thing. One is saying, "Don't worry about it because it is looked after elsewhere", and the other is saying, "Don't worry about it being looked after elsewhere, because we don't go any further than that." In such circumstances, people might ask why this is being done. The point is, they might both be wrong. There is a clear case for the exemptions for those officers who are independent of government. In no case is it a matter of their protecting themselves. As was pointed out in the second reading debate -

The exemptions being preserved by this Bill do not extend to every document of the agencies concerned; rather, the exemption is limited to documents containing matter covered by specific secrecy provisions. These secrecy provisions apply to prevent office holders and staff appointed under the Equal Opportunity Act, the Legal Aid Commission Act and the Parliamentary Commissioner Act from divulging information about the affairs of other persons which they obtain by virtue of carrying out their functions.

The important point is that this is not a secrecy provision which benefits the agencies involved. It is a secrecy provision which benefits their clients. Do we really believe that we should leave the clients of the Legal Aid Commission to a general exemption in the hope that the discretion will be exercised in their favour? The point of the secrecy provision is to tell the clients of the Legal Aid Commission, "You may go to the Legal Aid Commission with the same confidence that you can go to any lawyer." It is extraordinary to suggest that people who go to the Legal Aid Commission should be subjected to FOI, and to the discretions which reside in the commissioner, while someone who goes to an ordinary lawyer would never have to face FOI. Are we really saying that those clients should be in a different position? A similar point can be made about the Equal Opportunity Commissioner.

Hon N.D. Griffiths: Have you read the Freedom of Information Act?

Hon PETER FOSS: Yes. The point is that the information obtained is to be protected.

Hon John Halden: During the whole of this period, surely the Government must have considered these difficulties. Surely it should have come up with mechanisms.

Hon PETER FOSS: The Act contains a variety of mechanisms, not all of which are subject to this expiry. With regard to the Parliamentary Commissioner for Administrative Investigations, the Ombudsman is particularly concerned about the draft reports. He says that his problem is that, if he sends a draft report to a person for that person to respond to prior to his publishing his report, the report may be highly defamatory of that person, but when that person is heard - as quite appropriately he should be - he may form a different point of view. He is saying that it would be quite unfair for those people to face even the risk of that information being revealed and for it being subjected to someone's discretion as to whether it should be revealed. The reputation of that person could be irrevocably damaged by a report which might never finally be made. That is one concern raised by the Parliamentary Commissioner for Administrative Investigations.

Hon N.D. Griffiths: This year and last year. Why has your Government not got its house in order and passed the necessary legislation before now?

Hon PETER FOSS: That is another point.

Hon N.D. Griffiths: That is very much the point.

Hon PETER FOSS: If the member wants me to become involved in two arguments at the same time, by all means, but it is better to deal with the first. He says that he opposes the Bill because it is the Government's hiding its activities - plainly not. Hon John Cowdell said that it is typical of our hiding our activities. It is of no concern to the Government, because each matter relates to an independent organisation, which is not the Government -

Hon J.A. Cowdell: I said that it was typical of the Government's overriding -

Hon PETER FOSS: We will get onto that point. The member also said that it was typical of our trying to hide our processes. He should not try to get away with it; he said that. He glossed over the fact that none is an intimate part of government. One is not even part of government or of Parliament - the Parliamentary Commissioner for Administrative Investigations. The other two are independent. The Legal Aid Commission has hardly anything to do with government other than it happens to spend government money. The Commissioner for Equal Opportunity is independent of government. The member made that statement; it is not sustained. Also, they asked for the protection of clients, not of themselves. The argument is whether the matter is already covered. The member frequently used the words "on balance". He said that the Commission on Government report came down in favour of repeal - on balance. One can make the argument both ways. It is not a major point of principle.

I am sure that everybody agrees with what is intended to be effected by the amendment, and that is that clients of the Commissioner for Equal Opportunity and of the Legal Aid Commission should have their secrecy preserved and that the information that comes into their hands should be preserved by the Bill. Also, the Parliamentary Commissioner for Administrative Investigations should have secrecy provisions. Nobody says that that should not occur. The fundamental underlying point is that nobody has said that those matters should be made public. We are arguing about whether it should be within existing Acts or the FOI. Where should it be? It is extraordinary that we are having this massive argument about where it should be. We are talking about semantics and arrangements.

I have not heard Hon Nick Griffiths say that it is important that draft reports of the Parliamentary Commissioner for Administrative Investigations should be made public. I have not heard it said that people involved in the Legal Aid Commission or the parliamentary commissioner's people should not have the benefit of the exemption that is created.

Hon N.D. Griffiths: Nor will you. The debate is about the Government's competence, or lack of it.

Hon PETER FOSS: That is another point. A point was raised by Hon John Cowdell. He attacked the Bill, not the time at which it was brought in. Hon Nick Griffiths said that the

Bill was No 7 on the Notice Paper of 24 October. It actually reached the House a week ago.

Hon N.D. Griffiths: That is another example of the Government's incompetence.

Hon PETER FOSS: Although the Government sets the business, we very much depend upon the Opposition's cooperation. Our timetables often go. Many times it is indicated that a Bill will take only a short time and will not be opposed.

Several members interjected.

Hon PETER FOSS: But even with the best cooperation, sometimes we run over time. I do not complain. I sit here and I accept -

Hon N.D. Griffiths: You complained about not sitting yesterday.

Hon PETER FOSS: I accept that, with the best will in the world, sometimes members feel constrained to speak, and perhaps speak again and again in Committee, and to persist in a matter. I do not object. I am not suggesting that we should use the gag or the guillotine to ensure that people adhere to timetables. We recognise that the Government, although it has control of business in the House, is very much in the hands of the House when it comes to the exercise of time. I accept that to be the case.

Hon John Halden: You can't be serious. There are four pieces of legislation on the Notice Paper left to be dealt with. That is hardly an obstructive Opposition.

Hon PETER FOSS: I did not say that that was the case. I did not say that the Opposition was being obstructive. I said that, with the best will in the world, all too often the timetables that everybody believes will be adhered to do not happen. I am sure that the Leader of the Opposition knows that. He would prefer that to an alternative in which we stuck absolutely to a strict timetable and all sorts of measures in the rules and otherwise to ensure that that occurred.

The other comment was that the Information Commissioner's views have been misrepresented or that a conclusion has been drawn inappropriately. It was not a matter of the Information Commissioner's not responding to the amendments or the second reading speech. Her office approved the comments with regard to the amendments. Several detailed discussions were held with the commissioner and her legal officers.

I recognise that the Bill is late. The Government would have much preferred that it was not necessary for any retrospectivity to be introduced. I accord entirely with Hon Nick Griffiths on that point, but unfortunately the provisions of the Interpretation Act are such that the Bill would not come into effect for another 28 days, even if we were to pass it today. Therefore, a clause is required to bring it into effect. I understand that there is every possibility that the Bill could be put to the Governor in time for it to come into effect on 1 November without any retrospectivity. I should like to be so confident of that that we do not need a retrospective provision, but we should not take that risk. In Committee, I will move a commencement clause which will ensure that the Bill comes into effect on 1 November. I commend the Bill to the House.

Question put and a division taken with the following result -

Ayes (13)

Hon George Cash
Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Peter Foss

Hon Barry House
Hon P.H. Lockyer
Hon I.D. MacLean
Hon N.F. Moore
Hon B.M. Scott

Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Noes (11)

Hon Kim Chance
Hon J.A. Cowdell
Hon Graham Edwards
Hon Val Ferguson

Hon N.D. Griffiths
Hon John Halden
Hon Mark Nevill
Hon Sam Piantadosi

Hon J.A. Scott
Hon Tom Stephens
Hon Tom Helm (*Teller*)

Pairs

Hon M.D. Nixon
Hon Murray Montgomery
Hon Max Evans
Hon P.R. Lightfoot

Hon Bob Thomas
Hon Cheryl Davenport
Hon A.J.G. MacTiernan
Hon Doug Wenn

Question thus passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon Peter Foss (Minister for the Environment) in charge of the Bill.

Clause 1: Short title -

Hon N.D. GRIFFITHS: I note that it will shortly be six o'clock and the Minister for the Environment has moved that the Legislative Council should sit past six o'clock this evening. That motion was passed. This situation comes about because of the incompetence of the Court-Cowan Government in not having its house in order sufficiently for necessary legislation to be passed in another place and to come to this place in time for proper procedures to be observed.

Point of Order

Hon P.H. LOCKYER: I understand the debate on the short title is very restricted. Certainly, in my experience since I have been a member it has not been used in this Chamber as an opportunity to lambaste a Government of any persuasion. I believe the honourable member has unintentionally strayed quite significantly from the subject of the Bill.

The CHAIRMAN: The honourable member should stick to the substance of the short title, which is the Freedom of Information Bill.

Debate Resumed

Hon N.D. GRIFFITHS: I am most obliged to Hon P.H. Lockyer for his comments. I am very thankful to hear his point of order, as a senior member of this House. The short title of this Bill is to the effect that this "Act may be cited as the *Freedom of Information Amendment Act 1995*". It is important to note that we are considering this Bill because of the gross incompetence of others - not the honourable member who pointed out the narrowness of debate permitted on the short title.

We dealt with a similar issue in 1994. At that time we extended the period by one year, yet we find ourselves, less than a year since 14 December 1994, again dealing with an issue with which we should not be dealing in 1995. I have listened, as no doubt Hon P.H. Lockyer has, intently to the response of the Minister for the Environment to the points made by the Opposition in the second reading debate. Nowhere in his response did he explain why we are dealing with the matter today. I suggest that at the very least, the Minister has a duty to this Committee to explain why we are dealing with the matter today rather than its having been dealt with some weeks ago. We should not be in the situation, which we are regrettably in now, of debating this matter after the dinner suspension and contemplating a measure which would be a black mark on this place were it to pass.

Hon PETER FOSS: It may not satisfy the honourable member, but I believe I have addressed the points.

Hon N.D. GRIFFITHS: The Minister has a set of beliefs on many matters, and it would seem this is another example of where his beliefs and mine differ. He is correct in his assessment of my satisfaction about what the Government proffers by way of explanation. I am certainly not satisfied with what has been proffered so far. In fact, I am so dissatisfied that I feel the Australian Labor Party will give great consideration to voting against the short title of this Bill. It may not do so, if the Minister provides a

satisfactory explanation. He may not be able to do so because there is no satisfactory explanation for the fact that on 26 October 1995 we are dealing with a measure that we are told must come into effect on 1 November 1995.

There are moments when I deeply appreciate the guidance of Hon P.H. Lockyer on these matters because I know he is a very senior member of this Chamber, and is more senior than the Minister. I am aware he has a high regard for the traditions of this place. Having listened intently to the Minister, he might be in a position to tell us why matters have come to such a pass. The Minister cannot tell us, because it seems he does not know. If he knew, given that he prides himself on his capacity to give satisfactory explanations, no doubt he would explain why we are dealing with the measure now. He does not do so, and we can infer that perhaps it is because there is no communication between him and his ministerial colleagues. I do not know why that should be the case and I do not want to speculate, but from time to time the Minister is obliged to listen. He may not like what is said to him, but he finds himself in a position in which he must listen. He has heard advice to that effect on many occasions in this Chamber. I suppose he will hear it time and time again.

Hon Graham Edwards: He has certainly given it.

Hon N.D. GRIFFITHS: Perhaps he has, but when the Minister gives that advice he may think it falls on deaf ears. I would like to listen to proper argument and explanation.

The CHAIRMAN: Order! I think the member has been given reasonable licence to make his point, and it is now time he addressed the short title.

Hon N.D. GRIFFITHS: The Opposition will oppose this Bill for the reasons I have outlined.

Sitting suspended from 6.00 to 7.30 pm

Hon J.A. COWDELL: Before we suspended for dinner the Minister commented that the COG had got it wrong. I was particularly concerned about the claim in the second reading speech that the amendment had been requested by the agencies affected and the Information Commissioner. It is my understanding from reading the quotes from the Information Commissioner in the Commission on Government report that she definitely lined up with the COG commissioner.

Hon PETER FOSS: It is not true that the Information Commissioner did not respond to the amendments or the second reading speech. Her office approved the comments about her views on the amendment. Several detailed discussions were held with the commissioner and her legal officer.

Hon JOHN HALDEN: The Minister for the Environment attempted to put forward a view that does not reflect the view of the Opposition, and I want to clarify our position. The Government has reviewed this matter over 12 months.

Hon Peter Foss: It has been reviewed a couple of times, and this is the second time the sunset provision has expired.

Hon JOHN HALDEN: The Government has taken roughly 12 months to review this matter and has come back with a position which is to maintain the status quo.

Hon Peter Foss: Except that it takes away the expiry clause. It is not a change in the law.

Hon N.D. Griffiths: The sun sets.

Hon JOHN HALDEN: The Minister then said that the Opposition was advocating that the FOI Commission was part of the Government, and that as these agencies were not part of the Government, the Opposition was more likely to put in jeopardy those individuals within the FOI process.

Hon Peter Foss: I said that the Opposition attributed the Government's motives to an attempt at secrecy in government. I said that we could not give a farthing for that.

Hon JOHN HALDEN: That is the significant difference. The Opposition is saying that some of these agencies review the processes of government.

Hon Peter Foss: Yes. That is why they are independent of government.

Hon JOHN HALDEN: In that way it is legitimate for an Opposition to be assured of the competency of those reviewing processes.

Hon Peter Foss: The Bill still does that, because those parts are not protected by it. The only information that is protected is the client information.

Hon JOHN HALDEN: I do not know if that is correct in some cases.

Hon Peter Foss: It is.

Hon JOHN HALDEN: I am happy that the Minister has assured me of that. The Minister stated that some confidential information about the individual could be released. However, my understanding of some of those schedules is that information about the individual is already protected.

Hon PETER FOSS: That is what makes this such a nonsensical argument. Nobody is suggesting that the information, the subject of this Bill, should be made public. The difference between our two points of view is that a matter can be subject to an overriding public interest test, which is a decision of the Information Commissioner. If it is in the Act, it is absolute and that personal information may not be revealed.

In the first instance, there is an overriding discretion of the commissioner and in the second there is not and secrecy provisions are absolute. In reality it is unlikely that this information would be overridden by the Information Commissioner. The point made by those independent officers is that they believe it would interfere with the functioning of their offices if there were a possibility that it would be overridden. They wish to guarantee that secrecy to their clients. We are not talking about government information, but client information. This is splitting hairs. It matters little from the Government's point of view. However, the principle put to us by these officers - one is an officer of this Parliament, one an independent officer on equal opportunity, and the other is distant to us in the area of legal aid - is that the public who deal with them as clients should be guaranteed that even if there were a weird decision from the Information Commissioner, their information would be exempt.

If Hon John Halden were in government and the same point came up, I suspect that he would be doing exactly what we are doing. There is no political business in this. It has nothing to do with the Government; it concerns these three agencies, which are independent. We are taking their advice. We discussed it with the Information Commissioner, who holds a different view, but she does not object to the amendment. People often have different points of view: If I were making a decision I would do this; if Hon John Halden made the decision he would do otherwise. I would not object to it.

The Commission of Government is not trying to protect anything. It is saying that on balance it is a philosophical matter. The Act which governs this should be the FOI Act, and there should be no secrecy provisions in separate Acts. I understand that point. It is not a stupid point, it is just that I disagree with it. There is another side, and I sympathise with it - that is, this should be absolute and not discretionary. That is the difference. One could have come down on the other side with perfect rationality.

Hon N.D. GRIFFITHS: I understand every point made by Hon Peter Foss. He knows that earlier today I noted my understanding. I also note there are other sides to the argument. The word "principle" was mentioned by Hon Peter Foss. The real principle here is the contemplation by this Government of the introduction of retrospective legislation because of its incompetence in administering the affairs of this State. For that reason we will oppose this clause.

Clause put and a division called for.

Bells rung and the Committee divided.

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

Division resulted as follows -

Ayes (12)

Hon George Cash
Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson

Hon Peter Foss
Hon Barry House
Hon P.H. Lockyer
Hon I.D. MacLean

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

Noes (8)

Hon Kim Chance
Hon J.A. Cowdell
Hon Val Ferguson

Hon N.D. Griffiths
Hon John Halden
Hon A.J.G. MacTierman

Hon Mark Nevill
Hon Tom Helm (*Teller*)

Pairs

Hon M.D. Nixon
Hon Murray Montgomery
Hon Max Evans
Hon P.R. Lightfoot
Hon N.F. Moore

Hon Graham Edwards
Hon Doug Wenn
Hon Cheryl Davenport
Hon Tom Stephens
Hon Bob Thomas

Clause thus passed.

Clause 2: Schedule 1 amended -

Hon N.D. GRIFFITHS: I was interested to read this clause. I thought Hon Peter Foss might make a few comments; however, I think he is waiting for something else. I do not want to make my comments too prospectively so I will sit down.

Clause put and passed.

New clause -

Hon PETER FOSS: I move -

Page 2, before line 1 - To insert the following new clause -

Commencement

2. (1) If this Act receives the Royal Assent before 1 November 1995 it comes into operation on the day on which it receives the Royal Assent.

(2) If this Act does not receive the Royal Assent before 1 November 1995 it is deemed to have come into operation immediately before 1 November 1995.

Although this clause is being moved now, I think we have already covered its contents more than anything else. I think the point is understood. If we did not have this clause and the Bill were to be assented to tomorrow - that is not beyond possibility if it were to be passed here tonight - under the Interpretation Act it would be 28 days before it came into effect.

Hon John Halden: How could it be done?

Hon PETER FOSS: I see what the member is getting at; it would be the next sitting day, next Tuesday. If we did not move this amendment, it would not need to go back to the other place.

Hon N.D. Griffiths: But you are now moving it.

Hon PETER FOSS: Once it is passed, the Bill must then go to the other House and various other things must happen. There will be a period before the Bill can be assented to. Let us assume that I had not moved this and it went to the Governor by 31 October when otherwise it would come into effect. It would be 28 days between the expiry and when the Act came into effect because of the provisions of the Interpretation Act. That would leave a gap in time between the expiry and the date of re-enactment. I do not think it would have any effect in practical terms because I do not think anyone could get a freedom of information application through in the -

Hon John Halden: Not under this Government; you're right!

Hon PETER FOSS: Ninety days is permitted -

Hon N.D. Griffiths: That is why you should not be moving for the insertion of this new clause.

Hon PETER FOSS: With the cooperation of the Opposition this could go through without the need for any retrospectivity. Theoretically it could be effected for 1 November. To make certain there is no legal gap between the expiry and the re-enactment of the clause, there is an element of prospective retrospectivity.

Hon N.D. Griffiths: Is that a question of balance?

Hon Kim Chance: Only in a constructive sense!

Hon PETER FOSS: I am glad to see Hon Kim Chance really has a grasp of this. I do not think it will affect anyone's rights. It will not cause the sky to fall in - the ceiling in here might, but not the sky. For the certainty of the legal effect and to make sure there is no gap, the insertion of this clause is being moved. I can anticipate some of the remarks from Hon Nick Griffiths, having heard them in an anticipatory fashion before. No doubt he will wish to tell us again.

Hon N.D. GRIFFITHS: I am just checking the ceiling because we have had rain recently. Hon Peter Foss said that the sky would not fall in -

Hon Peter Foss: I said the ceiling might.

Hon N.D. GRIFFITHS: I do not think it will tonight; however, just in case, I hope we are out of here reasonably soon. In that context I do not want to disappoint Hon Peter Foss, but I am afraid I will. I will not go through all the matters that we dealt with previously, but I will go through some and perhaps other members might as well. It is important to note that we are not talking, as Hon Peter Foss puts it, about the sky falling in; we are talking about prospective retrospectivity. He is of the view that no-one will be harmed by this Chamber indulging itself - yet again - under the leadership of his side in retrospective legislation. There is no prospectivity in retrospective legislation; it is prospective because it has not been passed, but of course the tyranny of numbers will guarantee that.

Hon Peter Foss: If we got it through tonight, you would not have that problem.

Hon N.D. GRIFFITHS: The problem with the position of Hon Peter Foss is that he is quite happy to have retrospective legislation passed which, in his view, will not in practical terms do anyone any harm because of the way in which the processes work. Yet he is perfectly happy to have a go at the traditions of this place, and other Houses in our system - other sibling Chambers. He is perfectly happy to discard them to accommodate his dear friend and colleague, the Attorney General. In the Labor Party we call them mates but because these are Liberals we call them siblings.

Hon Peter Foss interjected.

Hon N.D. GRIFFITHS: Methinks he doth protest too much. The Minister is trying to cover up the incompetence of others. Although he is part of the Government and engages in Cabinet solidarity, notwithstanding what we hear in the news he should know what goes on in the Cabinet room.

I refer to a document "Progress of Bills introduced into the Parliament of WA - Third Session of the Thirty-fourth Parliament 1995" dated 20 October 1995 - and this is for the benefit of Hon Ross Lightfoot in case he wishes to raise a point of order about my referring to a document to which I should not be referring. At page 4 under "Short Title" is the Freedom of Information Amendment Bill No 79. Beside that under "L.A.1R" is another notation. For those who do not know about Parliament, that means Legislative Assembly. I say that for the benefit of Hon Derrick Tomlinson, who has just woken up. The notations mean that the Legislative Assembly first read this Bill on 20 September 1995. The member has not exercised his voice, because when in government he cannot speak!

Several members interjected.

The CHAIRMAN: Order!

Hon N.D. GRIFFITHS: I am glad that Hon Derrick Tomlinson's mind has rejoined his body and he has gone back to sleep.

The CHAIRMAN: Order! Let us concentrate on the matter at hand.

Hon N.D. GRIFFITHS: The Bill was first read in the Legislative Assembly on 20 September 1995. That is incompetent! We all knew on 14 December 1994, if we paid any attention to what happens in this place, that something needed to be done well before 1 November 1995. Of course, at all material times Hon Peter Foss has been very familiar with the provisions of the Interpretation Act. Surely the Attorney General of the State, the highest law officer in the State, was well aware of the provisions of the Interpretation Act. Even Hon Derrick Tomlinson knew about those provisions -

Several members interjected.

Hon N.D. GRIFFITHS: He did. We all know he did.

Several members interjected.

The CHAIRMAN: Order!

Hon Peter Foss: Would it move things along if I apologised?

Hon N.D. GRIFFITHS: Yes.

Hon Peter Foss: I apologise.

The CHAIRMAN: Order!

Hon N.D. GRIFFITHS: The Bill was first read on 20 September 1995. I will be very careful here because I think members must pay due deference to the standing orders, as we always do on this side.

Several members interjected.

The CHAIRMAN: Order! If the Minister will cease his interjections I am sure the member will get to the point quickly, and the Minister can have his say later.

Hon N.D. GRIFFITHS: I do not want to disappoint you, Mr Chairman. I am taking the Minister through this document because I do not think he remembers what happened in the Cabinet room when the matter of urgency was discussed. The document reveals that the second reading debate commenced in the Legislative Assembly on 21 September 1995, and that the second reading was completed in the Legislative Assembly on 19 October 1995. It stayed on the Notice Paper for four weeks - 28 days!

Hon Peter Foss: It did not stay on the Notice Paper. It arrived here a week ago.

Hon N.D. GRIFFITHS: From 21 September 1995 to 19 October 1995 is 28 days. Is not that wonderful? It just happens to be 28 days in the Interpretation Act. It is a lovely figure. They were in remand for 28 days! That is where they belong.

Several members interjected.

Hon N.D. GRIFFITHS: It was hanging around with nothing occurring for 28 days. This is very important legislation, and we are very concerned about it. The Minister attempted to have a go at members of the Australian Labor Party in another place over this matter. They are so upset they have gone home! They are not with us tonight. They allowed this Bill to go through without any commentary in Committee.

Hon Peter Foss: Who?

Hon N.D. GRIFFITHS: My colleagues in the other place made no comment in Committee because they knew it was urgent. The Minister's Cabinet colleagues knew that - not the member, because he was probably asleep at that important meeting. He might cross the floor one day - inadvertently.

Hon Derrick Tomlinson interjected.

Hon N.D. GRIFFITHS: The member should go back to sleep! It is Thursday night.

The CHAIRMAN: Order! Can we get on with debate, without the stupid side issues?

Hon N.D. GRIFFITHS: In the Legislative Assembly the third reading of this Bill was dealt with on 19 October. Insofar as the members of the Australian Labor Party in another place had anything to do with this matter it would seem, by reference to this document, they facilitated it. Notwithstanding that, we have this rather incompetent effort on the part of this Government today. I note that the Bill came to this place on 19 October 1995; that is, a week ago.

Hon Peter Foss is not responsible for what happens in another place, although I am sure he would like to be. The incompetence is in the other place. I am sure Mr Foss finds himself very embarrassed having to put up with receiving a document such as this so late in the piece - as I am sure he is embarrassed by the ill-informed support from some raucous members on his back bench. The incompetence of the Government has been demonstrated today. The fact that it continues to engage in retrospective legislation, and that members opposite say one thing in opposition and do another thing in government, properly described would be unparliamentary. Therefore I will not describe it because I have a great degree of fondness for some members opposite. I would hate to use a collective term which was unparliamentary, and I do not want to be personal.

Hon PETER FOSS: We all recognise that we would prefer that this Bill had come to Parliament earlier. I do not know how it became held up in the other place. If it is of any assistance to the member, I apologise. I tried to apologise by way of interjection, but I feel like the butler in *The Importance of being Ernest* who could not even get good cucumber sandwiches for good money. Nothing I do seems to achieve the result I want. I consider myself appropriately admonished. I hope that my offering of my sincere regrets for inconveniencing the member in this way is accepted. I trust that members will be able to give the new clause the support it requires.

New clause put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN (Hon Barry House): Before the tellers tell, I cast my vote with the Ayes.

Division resulted as follows -

Ayes (12)		
Hon George Cash	Hon Peter Foss	Hon B.M. Scott
Hon E.J. Charlton	Hon Barry House	Hon W.N. Stretch
Hon M.J. Criddle	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon I.D. MacLean	Hon Muriel Patterson (<i>Teller</i>)
Noes (9)		
Hon Kim Chance	Hon N.D. Griffiths	Hon Mark Nevill
Hon J.A. Cowdell	Hon John Halden	Hon Sam Piantadosi
Hon Val Ferguson	Hon A.J.G. MacTiernan	Hon Tom Helm (<i>Teller</i>)

Pairs	
Hon M.D. Nixon	Hon Doug Wenn
Hon Murray Montgomery	Hon Graham Edwards
Hon Max Evans	Hon Bob Thomas
Hon P.R. Lighfoot	Hon Cheryl Davenport

New clause thus passed.

Title put and passed.

Bill reported, with an amendment.

[Leave denied to proceed forthwith to the remaining stages of the Bill.]

ADJOURNMENT OF THE HOUSE - ORDINARY

HON GEORGE CASH (North Metropolitan - Leader of the House) [8.05 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Questions - Minister for Health, Indonesia Jet Charter

HON SAM PIANTADOSI (North Metropolitan) [8.05 pm]: Earlier today, we saw evidence of a blatant misuse of power within this House. I asked a question without notice to the Minister for the Environment, representing the Minister for Health, about who was on the plane with the Minister for Health that went to Jakarta. That question related directly to the Minister for Health, and not to his department. The response that I received from the Minister for the Environment was basically that the Minister for Health had referred the question to the department. That is a pretty poor state of affairs, although obviously that was all he could say because that is what the Minister for Health had indicated. The Minister for Health was responsible for chartering that 10-seater plane, so he should know who accompanied him on that trip.

I urge the Leader of the House to ensure that the answer is provided to me by Monday and to see his ministerial colleague the Minister for Health and try to bring a bit of sense and fair play into the way in which questions are answered. For the Minister for Health to fob off the question by saying that it must be referred to the department is stretching any friendship or goodwill that may exist or that members opposite may want to promote. In the past, when I have asked questions that involved detailed information, I have put them on notice to give the Minister the opportunity to obtain that detailed information, but this question was directed at the person who was involved. The Minister should know which advisers or friends he took with him to Health Expo 95 because it would have been difficult for them to get on to the Minister's charter if he was not aware of their names.

Hon A.J.G. MacTiernan: How many of them were private businessmen? That is the interesting part of the question.

Hon SAM PIANTADOSI: I do not know. That is the question that I would like answered. We want to scrutinise who travelled on that charter flight, which was paid for by all taxpayers, and that includes members in this place and other Western Australians. The Minister said in his media statement that the persons involved would pay their own fares. We would like to know who those persons were, because I will make available next week information which will bring a bit more light on the actions of Mr Kierath and his junket to Indonesia. The Minister made a statement about why it was necessary to charter a plane and have a contingent of Western Australians accompany him. It is not just that Hon Sam Piantadosi or another member is trying to fish for information. It follows from a press statement that was issued by the Minister on 17 October and reported in *The West Australian*. The public of Western Australia and the members of both this House and the other House have a right to an answer from the Minister about who accompanied him, what costs were involved, and what was the reason for the trip. It had nothing to do with the department. I urge Mr Cash to use his good offices. We are heading towards a very tight period as we near Christmas and a lot of cooperation will be necessary for the functioning of this place during that period. Members opposite are not getting off to a very good start to obtain cooperation with this sort of treatment handed out today. The Minister involved knows exactly what is going on, and he blatantly misleads the House by saying it has to be referred to the department for the department to obtain the information.

Withdrawal of Remark

Hon PETER FOSS: I ask that that remark be withdrawn. Hon Sam Piantadosi said that the Minister blatantly misleads the House.

Hon Sam Piantadosi: I did not say this Minister.

Hon PETER FOSS: I have two objections. Firstly, it sounds as though Hon Sam

Piantadosi is referring to me, because I am the only Minister who can mislead this House because I am the only representative Minister that he is talking about who is here. Secondly, even if he was referring to another Minister's blatantly misleading this House he cannot say it.

The DEPUTY PRESIDENT (Hon Barry House): The remarks must be withdrawn.

Hon SAM PIANTADOSI: I certainly never intended that, because I said right at the outset that it was not for one second aimed at Mr Foss. I said earlier that he could respond only to what had been given to him. My question was to the Minister for Health. It affected the Minister and the Minister's travel. He was involved, and yet the answer we got back was that it had to be referred to a department. It had nothing to do with the department. To me that is misleading.

The DEPUTY PRESIDENT: The point is that the member cannot make imputations against members of either House to that effect. Those words must be withdrawn.

Hon SAM PIANTADOSI: I will withdraw that remark.

Debate Resumed

Hon SAM PIANTADOSI: I ask for your indulgence, Mr Deputy President. Will you point out to me how on behalf of the people we represent we can get at some truth in this place and how it can be provided? The actions that have occurred quite clearly do not enable me to ask a question of the person who was directly involved. He did not have a massive jet liner, only a 10 seater jet chartered to take him to Indonesia. If he cannot answer the question, how are we to obtain answers? It did not involve the department; it involved the Minister for Health. I could understand any argument that Mr Foss, Mr Cash or any member might put forward in defence of the Minister if the Minister himself had not been involved, but it is a clear case of the Minister chartering a jet. On 6PR and in the media statement in *The West Australian* it was pointed out that he chartered the jet and invited a few of his friends along. Fine, I accept that he needed to charter that jet. However, I want to know who accompanied him and who made up the group of people who were not part of his party or from his department. The Minister informed us that he had other travellers with him. When a chartered jet is being paid for out of the public purse, we are entitled to know who is getting a freebie, who is getting a free ride. Until we get the matter clarified, we can assume only that there were some freebies. Why else would the Minister not answer the question?

I have been charged in the past with referring to people opposite as a bunch of crooks, and I have had to withdraw, but from the response I received today I cannot help but think that I am right in my assertion with some members opposite. I cannot say it because it would be unparliamentary, and Mr Charlton and others would be jumping up and asking me to withdraw, even though the remarks might not be directed at them. We are in a no-win situation when we cannot even get answers. I urge Mr Cash to do whatever possible to try to get me the answers, because if I put a question on notice it will be six months before I have an answer.

HON PETER FOSS (East Metropolitan - Minister for the Environment) [8.15 pm]: I will advise Hon Sam Piantadosi a little on how Ministers' offices work and how they function with respect to their host department. First, with things such as charters - at least it was my experience when I was Minister for Health - all the arrangements are made by the department.

Hon Sam Piantadosi: You gave away freebies, as well?

Hon PETER FOSS: A Minister has to visit parts of the State to see people; in fact, I am constantly plagued by some of the members in this place, one of whom is not in here at the moment, to visit particular places. If anything, one faces terrible problems for not visiting rather than for making a trip. May I indicate how the process works? One has a host department, which handles all the expenditure of one's finances for one's department. It usually makes all the arrangements for travel.

Hon E.J. Charlton: You should ask Hon Tom Stephens to advise you how it is done.

Hon PETER FOSS: That is right. Hon Tom Stephens managed to get in more travel in a very short period than anybody else.

Hon Kim Chance: He was a very busy Minister.

Hon PETER FOSS: Yes, his feet hardly touched the ground by the looks of it. All these arrangements and details are dealt with by the host department.

On the question of questions, it might be thought that a Minister does all these things himself - he drafts his letters, makes his appointments, and personally enters into his computer the details of letters received and sent. However, he does not do that. Most of the matters a Minister attends to are prepared in some way by somebody else within his office. Of course, he has the final responsibility for everything that happens within his office, but generally speaking it comes to him prepared by somebody else.

Hon Sam Piantadosi: You are looking for a scapegoat.

Hon E.J. Charlton: He is trying to educate you.

Hon PETER FOSS: There has been no refusal to answer Hon Sam Piantadosi's questions. Mr Kierath has nothing to hide; in fact, as Hon Sam Piantadosi pointed out, his own knowledge of this matter comes from a press release issued by Mr Kierath. Mr Kierath has brought this out into the public and is not trying to hide anything. The fact is that under the member's opposition we have had very large numbers of questions. To give an idea, we are up to question on notice 3976. As for questions without notice of which some notice has been given, I do not know what number we are up to. What normally happens, especially with questions without notice of which some notice has been given, is that during the course of his day the Minister usually has a full appointment diary, so that when a question such as Hon Sam Piantadosi's comes in, the people in his office move immediately to seek to get an answer. They do not go to the Minister. Like everything else, it first of all goes to the Minister's host department. The staff have the records. I am not giving any excuse for the department. I said that I did not believe it was acceptable that the department had not replied to seven questions. I do not think that is acceptable. I purposely put that into the *Hansard* record because I would like the message to get back that it has been observed by Hon Sam Piantadosi, me and the House that it is not an acceptable turnaround time. Even if the Minister were in his office, he would have wall to wall appointments. However, the first thing his office does to try to accommodate members and make sure they get their answers is to send the question off to the department. The department's responsibility was to respond in time for our coming back into the House today.

The difficulty we face is that most of those things are done through the very good parliamentary services we have here. Those officers follow it up; it is a big job. The staff we have here work extremely hard to follow up and make certain we get answers to questions of this nature. It is not always easy and sometimes, as Hon Sam Piantadosi will know, we are sitting in this House when those answers come to us. However, we do try to get the answers to members. What would normally happen is that as soon as Hon Sam Piantadosi's question was received by the Minister's office it would be forwarded to the appropriate department, which would normally give an answer which would come back to the Minister's office. The Minister would look at the answer and okay it. It would then get sent through to parliamentary services and then come to me as the representative Minister, and I would okay it.

I will not allow a question to go into the green books until I have seen it and have okayed it. If I am not happy with an answer, I will send it back. In fact, when I gave an answer today my answer was that I was not happy that I did not have an answer. That was not given to me by the department or Mr Kierath - that was my answer. My answer as the responsible Minister in this House is that I am not happy with the turnaround time from the department on this question. I appreciate that it required the coordination and cooperation of a large number of people, all working independently of the Minister. They must work independently of the Minister because even as a member of Parliament one would be hard pressed to get all the questions done that come through.

Hon E.J. Charlton: In this case they must double check that the name of the person is right, because it was not a departmental decision.

Hon PETER FOSS: That is correct. Even if I as a Minister were asked the names of the 10 people on a plane and I thought I could remember, I would check them. It is an important responsibility. Ministers do not rely just on their memory in these matters; they try to check the details. I work with and see many people over a day. If a Minister had the capacity to check, he would check. I expect the department to check the manifest and I expect all the details to be appropriately checked all the way through, because I take the answering of questions seriously.

Hon E.J. Charlton: We get into trouble if we get it wrong.

Hon PETER FOSS: I like to be certain that it has been checked. To say that one would ask the Minister is not correct. It would be darned hard to find a Minister during the course of the day. I do not think I have had spare time today. We walked out of this Chamber at 6.00 pm today and I did not get a chance to ring my wife to tell her I would be late home until 7.25 pm because journalists, press secretaries and chief executive officers wanted information from me.

Hon Mark Nevill: You're delaying yourself now.

Hon PETER FOSS: That is a Minister's day. That is why Ministers rely on their staff to get things going. Members might think that the first thing that happens with questions is that they go to the Minister. I assure members that the Minister is the last person to get the questions because everybody else runs around and does the work. Those parliamentary questions are taken seriously. A Minister's office in that period when the questions without notice come in until he comes to Parliament is like a seething cauldron with everybody running around to get things done, because Ministers take the questions seriously and try to get members the answers.

As I said, I do not accept that the turnaround time was satisfactory in this case. I have apologised to Hon Sam Piantadosi and to the questioners in the other six cases. It should have been done faster. I accept that criticism; however, I do not think members can then draw the rather extraordinary conclusion that Hon Sam Piantadosi did that there is something sinister, wrong or dishonest about the fact that a Minister has not answered the question. I suspect that the question has not been near the Minister at this stage, and I would not expect it to go near the Minister until it came back from the department. Sometimes the answers come back here directly from the department and are not okayed until they have been through the Minister in the other place and the Minister here. Some of the remarks Hon Sam Piantadosi made are based on a misconception about the procedure by which these questions are answered.

Hon Sam Piantadosi: It is no misconception. There is a reluctance by the Minister to answer the question.

Hon PETER FOSS: One of the reasons I informed the House that I did not have those answers is that I knew that several of the members here may prefer to ask their questions on Tuesday, rather than have them go on notice. Hon Kim Chance checked to see whether that was the case.

Adjournment Debate - Questions, Answers Outstanding

HON MARK NEVILL (Mining and Pastoral) [8.24 pm]: The House should not adjourn this evening until I again bring to the attention of the House the abject failure of this Government to provide prompt and reasonable answers to questions on notice. Last week I raised this matter with the Leader of the House. He gave an assurance that he would raise the matter in Cabinet and follow up the matter to see whether the current backlog of questions could be answered. In the past four weeks I have had one answer to questions which were asked before the last recess. I had expected at least to get a good number of answers either last week or early this week. We are heading towards another recess following next week. I now have some 150 questions on notice which have not been answered. The Minister who spoke before me talked about the Minister not yet having the answer. I have had questions on the Notice Paper since March. I hope they

have been near the Minister in another place. It is a bit difficult in this House to talk about the responsibilities of other Ministers to provide answers because the President recently reminded us of the standing orders of this place. It does not matter what the other Ministers do in the other place, the Ministers here are responsible for the answers.

The one answer I received this week was from the Leader of the House in his capacity as the Minister for Mines to a question asked last week. However, in his representative capacity he is failing this House. I can come to no other conclusion than that the Government does not take this House seriously. One answer in four weeks is inadequate. I suspect that some Ministers have no intention of answering questions. If I do not get answers to the majority of those questions that have been on notice for so long, it will be about time a motion was moved in this House to require a Minister to answer those questions. I believe that enough members on the government side of the House are fed up with the performance by this Government in answering questions and would be prepared to support a motion along that line. I say this as a warning of a motion I would be prepared to move. If that step is necessary, I am quietly confident that there are the numbers in this House to require a Minister to table those answers in this place. We have one more sitting week before the recess. I hope that, come Tuesday, we will get some answers to those questions, and that the Ministers in this House show that they take this place seriously and provide members with answers to questions that they have spent a lot of time researching and putting together. If we do not get answers, we can assume only that this Government has a contempt for the Legislative Council.

Adjournment Debate - Commission of Elders of Aboriginal people

HON TOM HELM (Mining and Pastoral) [8.28 pm]: I bring to the attention of the House the answer to a question that was asked by Hon Tom Stephens this afternoon about the setting up of a Commission of Elders. The member asked the Leader of the House representing the Premier to confirm that the Government was bringing together a Commission of Elders of Aboriginal people who were purported to represent an Aboriginal point of view in this State. The answer contained figures that suggested about 120 people would be considered to be elders of the Aboriginal people. Those figures came from a recommendation of the Aboriginal social justice task force. The answer contained the information that it was the first time such a commission had been set up and that the commission would comprise people who had been elected from within their community to represent their community's point of view.

Hon Peter Foss: As representatives, not just as elders.

Hon TOM HELM: Yes, as elders. There were letters from their communities and the reply contained an assurance that the commission would not usurp the authority of groups which already represent Aboriginal views; namely, the Aboriginal and Torres Strait Islander Commission, the resource agencies, land councils and cultural organisations. The reply states that it would cost \$70 000 to bring those people to Perth and establish the commission and that a budget allocation of \$200 000 would be set aside for 1996-97. I bring this matter to the attention of the House because I ask the House to recall some of the provisions in the second wave of industrial reforms and the importance of secret ballots. I can assure the House that those Aboriginal elders were not elected by secret ballot. My inquiries suggest that the ballot was not conducted in the usual way, by a show of hands or through some other method. I have yet to determine how those people were elected to the commission. I do not deride or denigrate the people who have been elected as elders from their communities. However, the reply states that this is the first such commission in Australia. I am concerned about the history of this Administration with regard to the native title or Mabo legislation and the steps which have been taken, and which are still being taken, to avoid the State's responsibilities with regard to the concept and decisions of the High Court in relation to the Mabo legislation and land title. I accept that, as the reply states, the commission will not usurp the authority of the councils which have already been established. I point out that ATSIC is established through a secret ballot and through the Electoral Commission. In every way, it fits in with this Administration's view of how industrial relations should be conducted in terms of secret ballots.

I am very concerned, and my concerns are shared by several people, including Hon Tom Stephens, that the commission will be set up to allow the Government to avoid its responsibilities. People may be used as pawns in the political game which this Administration plays to avoid its responsibilities, particularly in relation to land rights. We must take note of the fact that there is no other such commission in Australia. From my short experience of being with Aboriginal people and learning from what they tell me, being an elder - particularly in the north west - is not something to which a person is elected. In most cases, a person is born to that position. Someone is born to be a lawman or to be consulted in things Aboriginal. People are not elected to such positions.

Hon Peter Foss: That is right. The Aboriginal processes will determine the appropriate people.

Hon TOM HELM: I understand that the people who comprise the commission will meet very soon at Yanchep to deliberate on the recommendations of the task force. They were not elected by secret ballot. The only organisation which is seen to represent the views of Aboriginal people which is elected by secret ballot is ATSIC. It is elected by the traditional, understandable, western Westminster system of secret ballots which the Electoral Commission has put together. That is not the case with the new commission.

I am concerned about this. It is an expensive worry. I wonder what the Government expects to get for the \$200 000 it has set aside. I suspect - and I am very suspicious of the Government - that the Commission of Elders is nothing more than a smokescreen or an attempt by the Government to avoid its responsibilities under the Mabo legislation.

Adjournment Debate - Education and Aborigines, Education Week Function

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [8.35 pm]: I rise to comment very briefly on a matter related to education. Although I have done this on many occasions and sent the poor Minister into a tizz, on this occasion I want to compliment the Education Department and the Minister.

Last night I attended a dinner as part of the functions of Education Week to acknowledge the initiatives and achievement of Aborigines in education. The Minister and I have commented today on what a remarkable experience that was. People had worked in their communities for many years and, for many years, had felt that they had been frustrated enormously. They felt that they had not achieved the ends for their communities that they desired. They still feel there is an enormous distance to go in terms of education and Aboriginal people. Last night, those people were recognised for the first time and many of those people, who were even considerably older than I, were in tears as a result. It was a humbling experience, but also a worthwhile experience for those people. As I have said, the Education Department and the Government should be congratulated on holding that function last night.

Adjournment Debate - Home Building Case - Dear Complaints against Zuhaar Construction and Melville City Council

HON A.J.G. MacTIERNAN (East Metropolitan) [8.37 pm]: I want to place on record the case of Mr and Mrs Dear and their dealings with Melville City Council. I referred to this obliquely in the strata title debate, but I want to place some of the detail on record tonight. Mr and Mrs Dear owned a strata title property. An adjoining property was bought by Mrs Zurhaar. Her husband then proceeded to seek to develop the adjoining property. The matter has been fully investigated by the Ombudsman. I am concerned that the Ombudsman has made some very damning assessments of the performance of the City of Melville. It appears that there is no mechanism for Mr and Mrs Dear to gain justice from the City of Melville or have the Builders Registration Board of WA, which I believe has been complicit in these activities, act properly in relation to this matter.

I want to set out briefly some of the matters which the Ombudsman found. He found that the council had approved plans which involved an alteration to the home of Mr and Mrs Dear without Mr and Mrs Dear's approval. That is fairly extraordinary. The council had approved another person to go in and make alterations to their home. The Ombudsman then found that when that was pointed out to the council by Mr and Mrs Dear's solicitors,

the council refused to reconsider the approvals. Notwithstanding the fact that there had been no authority for the approvals, Mr Zurhaar had not bothered to construct the building in accordance with those unauthorised plans. Indeed, he went off on another tangent altogether. In his report, the Ombudsman pointed out that the council officers had been unable to explain why, notwithstanding the fact that they had made several inspections of the construction following the Dear's complaints, they had not at any stage recorded that there had been substantial unapproved variations to the plans.

The Ombudsman then found that the council, in all its conduct, had appeared to favour unduly one party in this transaction, which of course is very worrying. In addition, he found that the council had accepted unsubstantiated claims made by Mr Zurhaar about Mr and Mrs Dear and had relayed those to third parties, including members of Parliament, in order to attempt to improperly undermine the legitimacy of Mr and Mrs Dear's complaints. Finally - and this is one of the most extraordinary aspects - the Ombudsman found that both the Builders Registration Board and the council had accepted claims by the applicants that the building works comprised 26 square metres when in fact 80 sq m was the correct measurement. Hence, the works were valued at about \$27 000 or \$28 000 and should have been subject to a building licence.

There has obviously been a very poor performance both by the Melville City Council, City of Melville officers and the Builders Registration Board. I feel very sorry for Mr and Mrs Dear. There seems to be very little capacity for them to obtain any justice from either of these organisations.

Adjournment Debate - Questions, Answers Outstanding

HON GEORGE CASH (North Metropolitan - Leader of the House) [8.42 pm]: In the few minutes remaining I want to respond briefly to four opposition members. I will not respond at length to Hon Sam Piantadosi's comments. Suffice to say that I will make further investigations. However, it is fair to say that Hon Peter Foss has very clearly set out the facts. I thought that Hon Peter Foss, as Minister for the Environment, showed this afternoon a great courtesy to the House in identifying the questions to which he did not have answers. More than that, he made it clear not only during question time this afternoon but again tonight during the adjournment debate -

Hon Sam Piantadosi: Nobody was attacking Hon Peter Foss.

Hon GEORGE CASH: I realise that. However, I am saying that, as Minister, Hon Peter Foss has stood in this place and said that he did not have answers to particular questions. More than that, he said that he was not impressed that he had not been provided with answers. Further, he said that he would take up the matter and he has confirmed that again during the adjournment debate. The House should regard the Minister for the Environment as having done his job particularly well in addressing that matter.

Adjournment Debate - Questions, Answers Outstanding

Hon GEORGE CASH: Hon Mark Nevill said that he wants answers to questions that have been outstanding for some time. It is no good my standing here and making excuses. I have heard what he said a second time and that matter will continue to be addressed. I will not give any commitment that I will provide a sheaf of answers on Tuesday, but he at least has a commitment from me that I will endeavour to get some answers to those questions. I am also conscious of what the President has said: In the end the answers given are the responsibility of the Minister in this House. Quite clearly, if I am not able to elicit certain information on the questions asked, it will be up to me to advise the member accordingly. The member will then be in a position to take whatever action he believes is appropriate in relation to those matters.

Adjournment Debate - Commission of Elders of Aboriginal people

Hon GEORGE CASH: I am pleased that Hon John Halden was gracious enough to congratulate the Education Department in relation to the function which the department arranged last night and which he attended. I will convey those sentiments to the Minister for Education, who at the moment is attending another departmental function outside Parliament House.

Adjournment Debate - Education and Aborigines, Education Week Function

Hon GEORGE CASH: The Commission of Elders referred to by Hon Tom Helm was set up in good faith. It is the Government's intention to work closely with the Aboriginal community. The bottom line for the Government is the advancement of the Aboriginal community as a whole.

Question put and passed.

House adjourned at 8.45 pm

QUESTIONS ON NOTICE

MINISTERIAL PORTFOLIOS - OFFICE ACCOMMODATION; RENTAL COSTS

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

- (1) What was the total cost for the rental of office accommodation for each department and agency within the Minister for Aboriginal Affairs' portfolio area for 1993-94?
- (2) What rental costs other than for office accommodation were incurred by each department and agency within the Minister's portfolio area for 1993-94?
- (3) What are the estimates for expenditure for 1994-95 for the rental of -
 - (i) office accommodation for each department and agency within the Minister's portfolio area; and
 - (ii) other rental costs?

Hon N.F. MOORE replied:

The Minister for Aboriginal Affairs has provided the following reply -

- (1)

Aboriginal Affairs:	1993-94
Aboriginal Affairs Department	\$320 548
Housing:	
Government Employees Housing Authority	\$41 162
Rural Housing Authority	\$16 526
Homeswest	<u>\$249 411</u>
Total rental cost for office accommodation	\$627 647
- (2) Given the account format and chart structure under program budgeting such detail is not readily identifiable.
- (3)
 - (i)

Aboriginal Affairs:	1994-95
Aboriginal Affairs Department	\$645 157
Housing:	
Government Employees Housing Authority	\$37 046
Rural Housing Authority	\$16 580
Homeswest	<u>\$75 825</u>
Total rental cost for office accommodation	\$774 608
 - (ii) Under the program budgeting structure, expenditures at this level are not provided for by way of a separate and identifiable allocation.

MINISTERIAL PORTFOLIOS - OFFICE ACCOMMODATION; RENTAL COSTS

717. Hon TOM STEPHENS to the Minister for the Environment representing the Minister for Health:

- (1) What was the total cost for the rental of office accommodation for each department and agency within the Minister for Health's portfolio area for 1993-94?
- (2) What rental costs other than for office accommodation were incurred by each department and agency within the Minister's portfolio area for 1993-94?
- (3) What are the estimates for expenditure for 1994-95 for the rental of -
 - (i) office accommodation for each department and agency within the Minister's portfolio area; and
 - (ii) other rental costs?

Hon PETER FOSS replied:

- | | | |
|-----|-----------------------------|-----------|
| (1) | Health Department of WA | \$788 367 |
| | Alcohol and Drug Authority | \$49 461 |
| | Health Promotion Foundation | \$58 683 |
- (2) Given the account format and chart structure under program budgeting such detail is not readily identifiable.
- | | | | |
|-----|-----|-----------------------------|-----------|
| (3) | (i) | Health Department of WA | \$877 028 |
| | | Alcohol and Drug Authority | \$49 145 |
| | | Health Promotion Foundation | \$64 460 |
- (ii) Under the program budgeting structure, expenditures at this level are not provided for by way of a separate and identifiable allocation.

WATER AUTHORITY - MYARA BROOK, KEYSBROOK, WATER SUPPLY

3666. Hon J.A. SCOTT to the Minister for Water Resources:

With reference to the proposal by the Western Australian Water Authority to licence access by Keysbrook landholders to water from Myara Brook -

- (1) Why does WAWA consider it necessary to issue licences when water supplies are available and are currently being used, and is this compatible with responsible water management?
- (2) On what opinions and/or advice does WAWA base its decision to licence the drawing of water from Myara Brook?
- (3) What effects will the proposal to licence have on the local water systems, Myara Brook, and ground water levels?
- (4) How many licences does the WAWA intend to issue and what volume of water will individually and collectively be able to be utilised from Myara Brook in any one year?
- (5) How many other instances in Western Australia are there people remote from a watercourse are granted such licences?
- (6) Are the actions of WAWA in granting licences to be applied to the whole State and thus give any person adjacent to or remote from a watercourse the right to draw water?
- (7) Has the WAWA done or received any scientific studies which predict the effect on local flora and fauna?
- (8) If yes, what were the results and recommendations?
- (9) If no, is the Minister satisfied that the action to grant licences will not have an effect on local flora and fauna, and will the Minister advise how monitoring of the impacts be maintained in the future?

Hon PETER FOSS replied:

- (1)-(2) The Water Authority has taken this action because the people in the local area cannot come to an agreement about use of the water from the brook. They demanded that government do something to solve the dispute. The only way I could do so was to proclaim Myara Brook as part of the Serpentine River system under the Rights in Water and Irrigation Act - licensing of use is the main mechanism of water management.
- (3) Licensing will improve the management of Myara Brook.
- (4) The issue of surface water licences will depend on a number of factors, including recommendations of the Serpentine-Dandalup-Murray Rivers Advisory Committee. At this stage, the Water Authority is not able to say how many surface water licences will be issued.

- (5)-(6) About 80, or 12 per cent, of surface water licences in Western Australia are issued to people remote from a watercourse, provided they have demonstrated legal access by written permission from the owners of the land over which access is obtained and the stream has the capacity to meet the demand.
- (7) Yes; computer modelling of the mean annual stream flow of Myara Brook can provide an indication of what is required to sustain riparian vegetation and fauna.
- (8) This information, together with the wishes of the community to protect the flora and fauna along the brook, will form part of the water allocation management plan being developed for Myara Brook and will be used in the granting of licences.
- (9) Not applicable.

WATER AUTHORITY - MYARA BROOK, KEYSBROOK, WATER SUPPLY

3667. Hon J.A. SCOTT to the Minister for Water Resources:

With reference to the Yamba subdivision in Keysbrook -

- (1) Is, or was, the drawing of water from Myara Brook by landholders in the Yamba subdivision illegal?
- (2) If yes, what action has the Western Australian Water Authority taken against landholders?
- (3) Has WAWA received any legal advice that the pipeline supplying the subdivision and drawing from Myara Brook is illegal?
- (4) If yes, who supplied the advice, what did it exactly advise, and what response or action did the WAWA make to the advice?
- (5) Will the WAWA provide a guarantee to landholders adjoining Myara Brook through which the pipeline runs that any damage caused by water from the pipeline or by the pipeline will be compensated for?
- (6) In the event that WAWA allows landholders remote from Myara Brook to draw water from it, whose land will the pipeline emanate from, whose land will it dissect, and has permission been obtained from the Murray Shire and other authorities for the pipeline to be positioned on public or Crown land?
- (7) Does WAWA and/or any other state department possess the power to force a landholder to comply with a compulsory order directing that landholder to allow water to be drawn from a water course situated within their land?

Hon PETER FOSS replied:

I should say as a preface that the member's questions seem to indicate a lack of understanding of the reasons for the declaration. There are limited governmental powers over water rights in WA. In addition to Statute the common law applies. Its rules apply mainly as between private individuals. The Water Authority has little power to intervene in a continuing dispute. The declaration does give some powers but many matters remain with landowners to exercise their common law rights.

- (1) While the Water Authority believes that water is being taken from Myara Brook without legal authority, it has not been determined that such water use is illegal.
- (2) The licensing of water use from the brook will resolve the legal position. If necessary, unauthorised use will be terminated by the Water Authority.
- (3) The Water Authority has no knowledge of a pipeline supplying the Yamba

subdivision. However, there is a pipeline supplying three remote landholders. The Water Authority has received legal advice with respect to this pipeline.

- (4) The advice was obtained from the Crown Solicitor's Office. Initial advice in March 1994 in regard to the pipeline was that "an unlawful obstruction of the stream is a continuing state of affairs and the powers of the (Rights in Water and Irrigation) Act may be applied accordingly." Further advice in March 1995 stated that the rights claimed by landholders under the Prescription Act 1832 (UK) should be disputed. The Water Authority initiated licensing as a water management mechanism and has surveyed user requirements.
- (5) No; it is the responsibility of the pipeline owners to obtain approval to establish and operate the pipeline.
- (6) A surface water licence can only be issued if the applicant has obtained written permission for access from the owner of the land contiguous to the stream.
- (7) The Water Authority cannot force a landholder to grant permission to another landholder to access water through his land.

TAFE - FULL TIME PLACES

Increase; Funded by Australian National Training Authority (ANTA)

3699. Hon JOHN HALDEN to the Minister for Education:

With reference to question on notice 51 of 1995 -

- (1) What was the percentage increase in full time TAFE places in -
 - (a) 1993;
 - (b) 1994; and
 - (c) 1995?
- (2) How many of full time TAFE places in -
 - (a) 1993;
 - (b) 1994; and
 - (c) 1995

were funded by the Australian National Training Authority?

Hon N.F. MOORE replied:

- (1)
 - (a) 5
 - (b) 12
 - (c) 3.
- (2) ANTA funding forms part of the general recurrent allocation to colleges. It is not possible to determine specifically how many full time places were funded from ANTA sources.

TAFE - BRIDGING AND PREPARATORY COURSES

3733. Hon JOHN HALDEN to the Minister for Education:

With reference to question on notice 256 of 1995 -

- (1) How many bridging and preparatory courses were/are there in -
 - (a) 1992;
 - (b) 1993;
 - (c) 1994; and
 - (d) 1995?

- (2) How much funding has there been for these courses in -
- (a) 1992;
 - (b) 1993;
 - (c) 1994; and
 - (d) 1995?

Hon N.F. MOORE replied:

- (1) (a) 46
 (b) 58
 (c) 78
 (d) 85.
- (2) There are no means of accurately assessing the level of funding for specific bridging and preparatory programs, as, in many cases, the source of funding is the general college allocation, and colleges provide the courses as part of their mainstream academic program.

EDUCATION DEPARTMENT - SCHOOL PSYCHOLOGISTS

Education Resource Centres; Alternative Initiative Programs; Country Programs

3739. Hon JOHN HALDEN to the Minister for Education:

- (1) How many social psychological education resources centres were/are there in -
- (a) 1992
 - (b) 1993
 - (c) 1994
 - (d) 1995?
- (2) How many alternative education initiative programs were/are there in -
- (a) 1992
 - (b) 1993
 - (c) 1994
 - (d) 1995?
- (3) How many country programs for children whose level of behaviour is such that regular schools are unable to cope were/are there in -
- (a) 1992
 - (b) 1993
 - (c) 1994
 - (d) 1995?
- (4) How many school psychology services were/are there in -
- (a) 1992
 - (b) 1993
 - (c) 1994
 - (d) 1995?

Hon N.F. MOORE replied:

- (1) (a) 4
 (b) 4
 (c) 4
 (d) 4.
- (2) (a) 0
 (b) 4
 (c) 4
 (d) 4.
- (3) (a) 2

- (b) 3
- (c) 3
- (d) 3.
- (4) (a) (school psychologists) 194
- (b) 194
- (c) 195
- (d) 198.

**WESTERN AUSTRALIAN DEPARTMENT OF TRAINING - NETWORK OF
TELECENTRES, 10 ADDITIONAL, LOCATIONS**

3746. Hon JOHN HALDEN to the Minister for Education:

With reference to question on notice 288 of 1995 -

- (1) Where are the 10 additional telecentres located?
- (2) How much funding is there for them in the 1995-96 state Budget?

Hon N.F. MOORE replied:

- (1) Beacon, Denmark, Kondinin, Kulin, Nannup, Tambellup, Ravenshorpe and Exmouth. Wyndham and Halls creek will commence operations shortly.
- (2) The Department of Training has allocated \$320 000 for this purpose.

STATE TRAINING BOARD - TRAINING COUNCILS

3771. Hon JOHN HALDEN to the Minister for Employment and Training:

With reference to question on notice 785 of 29 March 1995, how is the State Training Board assisted by a network of training councils?

Hon N.F. MOORE replied:

The primary function of industry training councils is the preparation of an annual, strategically focused industry training plan. The ITPs feed into the state training profile, which the State Training Board prepares for the endorsement of the Minister before submission to ANTA.

STATE TRAINING BOARD - TRAINING COUNCILS

3772. Hon JOHN HALDEN to the Minister for Employment and Training:

With reference to question on notice 786 of 29 March 1995, how do training councils achieve the following -

- (a) identification of the training requirements and the development of a training plan for the areas they cover; and
- (b) the establishment of training standards?

Hon N.F. MOORE replied:

- (a) In developing their industry training plans, training councils undertake an analysis of the strategic directions of the relevant industry, and conduct research and widespread consultation on its training requirements.
- (b) These standards are competency based, and are generally developed at a national level by the national industry training bodies, to ensure that there is a consistency in standards in the States for each occupation.

STATE TRAINING BOARD - TRAINING COUNCILS

Industry Sectors

3773. Hon JOHN HALDEN to the Minister for Employment and Training:

With reference to question on notice 787 of 29 March 1995, what are the industry sectors, as defined by the Australian and New Zealand standard industry classification?

Hon N.F. MOORE replied:

The industry sectors as defined by the Australian and New Zealand standard industrial classification are -

- Agriculture, forestry and fishing
- Mining
- Manufacturing
- Electricity, gas and water supply
- Construction
- Wholesale trade
- Retail trade
- Accommodation, cafes and restaurants
- Transport and storage
- Communication services
- Finance and insurance
- Property and business services
- Government administration and defence
- Education
- Health and community services
- Cultural and recreational services
- Personal and other services.

**WESTERN AUSTRALIAN DEPARTMENT OF TRAINING - OFFICE OF
ACCREDITATION AND REVIEW
*Quality Assurance Unit Establishment***

3775. Hon JOHN HALDEN to the Minister for Employment and Training:

With reference to question on notice 798 of 29 March 1995 -

- (1) When was the quality assurance unit established?
- (2) How much funding does it receive?
- (3) What are its functions?
- (4) Who heads up the unit?
- (5) How many FTEs are allocated to the unit?

Hon N.F. MOORE replied:

- (1) January 1995.
- (2) \$625 000.
- (3) The development and refinement of the VET quality system in collaboration with the State Training Board. The promotion and support of the understanding and commitment of training organisations to provide and continuously improve VET products and services. The provision of advice to training organisations on quality management approaches. The facilitation of best practice benchmarking.
- (4) Mr Michael O'Loughlin.
- (5) Five FTEs.

**WESTERN AUSTRALIAN ABORIGINAL EDUCATION CONSULTATIVE
GROUP - REVIEW**

3806. Hon JOHN HALDEN to the Minister for Education:

With reference to question on notice 944 of 29 March 1995, in regard to the review that took place of the Western Australian Aboriginal education consultative group of 29 March 1995 -

- (a) when did this take place;
- (b) what were its findings; and
- (c) who did the review?

Hon N.F. MOORE replied:

- (a) September 1994.
- (b) The outcome of the review was to adopt the Daube report recommendation to establish the Aboriginal education and training council.
- (c) Departmental officers from the Education Department of Western Australia, Education Policy and Coordination Bureau, and Aboriginal Affairs Department.

TAFE - MT LAWLEY CAMPUS
Photography Classes, Lack of Equipment

3863. Hon JOHN HALDEN to the Minister for Employment and Training:

- (1) Is the Minister aware of the lack of equipment for students involved in photography classes at Mt Lawley TAFE?
- (2) If yes, how does he propose to overcome this problem?
- (3) Are there any plans to increase the amount of funding for the photography department?
- (4) If not, why not?
- (5) Is there any intention to move the photography department from Mt Lawley to Perth Art and Design?
- (6) If yes, when will this happen?

Hon N.F. MOORE replied:

- (1) I understand that additional students having been given the opportunity to study photography has increased the demand for access to equipment.
- (2) An additional darkroom has already been provided. The school of art and design is scheduling a greater variety of class times for photography next semester, including sessions during evenings and weekends. This initiative is expected to spread more evenly student demand on the facilities, thus enabling more effective use of equipment.
- (3) A new darkroom is being provided at a cost of \$27 000 to establish, and a further \$14 000 has been allocated for more photography equipment. However, I am advised that the major limitation is lack of sufficient space at the Mt Lawley campus.
- (4) Not applicable.
- (5) Yes.
- (6) It is anticipated that the move will occur after three years.

**EDUCATION DEPARTMENT - STOP WORK MEETINGS, PRINCIPALS
LETTERS TO PARENTS**

3869. Hon JOHN HALDEN to the Minister for Education:

Has the Education Department been authorised to take any disciplinary action against any principal who decides to write his own letters to parents regarding the impact of State School Teachers Union of Western Australia stop work meetings?

Hon N.F. MOORE replied:

Authorisation exists under the Education Act; however, no action has been taken.

TAFE - STRIKE BY LECTURERS*North Metropolitan College Students Supervised by Other Students*

3871. Hon JOHN HALDEN to the Minister for Education:

- (1) Can the Minister confirm that, during the recent strike by TAFE lecturers, students at North Metropolitan College were supervised by other students?
- (2) Can the Minister explain why this occurred?

Hon N.F. MOORE replied:

- (1) At the Balga and Carine campuses, all programs delivered were supervised by appropriate college staff. Joondalup campus is an open learning campus and its flexible delivery approach meets the needs of a wide range of students. Facilitators are scheduled into learning areas in the same way lecturers are timetabled for classrooms at traditional campuses. Students work individually or in groups depending upon their own needs, with a facilitator on duty to assist and support them in their academic pursuits should they require assistance. During the recent strike by TAFE lecturers between 1 to 6 September and 21 September 1995, no students at Joondalup campus of the North Metropolitan College of TAFE were supervised by other students on a paid or a voluntary basis to replace TAFE lecturers who were on strike. In all cases, striking TAFE lecturers were either replaced by casual academic staff who were selected on a merit basis or the class was cancelled.
- (2) Not applicable.

EDUCATION DEPARTMENT - TEACHERS INDUSTRIAL DISPUTE*Superintendents Threat*

3880. Hon JOHN HALDEN to the Minister for Education:

- (1) Will the Minister confirm that superintendents have threatened to stand down principals and fine teachers up to a day's pay if they adhere to a teachers' union directive not to participate in the Minister's standards in education sample testing?
- (2) Why did superintendents take this proactive action when the Department and the SSTU were attempting to negotiate a resolution to the long-running teachers' dispute?

Hon N.F. MOORE replied:

- (1) The Education Department's monitoring standards in education testing program was administered in schools between 11 and 22 September 1995. The MSE program was subject to the State School Teachers Union of Western Australia Directive One bans. However, all schools involved in MSE administered the test. In the lead-up to the testing a number of schools indicated an intention to ban MSE. After further discussions with the MSE team and line management all but two schools agreed to participate. The two non-conforming schools then received a specific direction from the Director General of Education to administer the test and both schools complied. I am not aware that superintendents have threatened to stand down principals and fine teachers, nor has any instruction been given to superintendents to take such action.
- (2) Not applicable.

HOSPITALS - ROYAL PERTH*Registered Nurses, Contracts*

3896. Hon A.J.G. MacTIERNAN to the Minister for the Environment representing the Minister for Health:

- (1) How many hours of registered nurse time has been contracted by Royal Perth Hospital from private agencies during the periods -

- (a) 1 July 1994 - 30 June 1995; and
- (b) 1 July 1995 - 30 September 1995?
- (2) How much has RPH paid for engagement of registered nurses from those agencies during the time periods set out in (1)?

Hon PETER FOSS replied:

(1)	(a)	Royal Perth Hospital	66 707 hours
		Royal Perth Rehabilitation Hospital	7 627 hours
	(b)	Royal Perth Hospital	28 023 hours
		Royal Perth Rehabilitation Hospital	2 578 hours
(2)	(a)	Royal Perth Hospital	\$1 844 424
		Royal Perth Rehabilitation Hospital	\$174 878
	(b)	Royal Perth Hospital	\$829 714
		Royal Perth Rehabilitation Hospital	\$121 189

Note: The increase in the use of agency nurses is basically attributable to the hospital experiencing a 4 per cent increase in admissions this year compared with the same period last year, together with difficulty in recruiting nursing staff.

WATER SUPPLY - LITHIUM LEVELS IN DRINKING WATER; GREENBUSHES

3906. Hon J.A. SCOTT to the Minister for the Environment representing the Minister for Health:

- (1) At what level is lithium and/or lithium compounds safe to drink in a water supply?
- (2) Whose standards are these?
- (3) What action is the Minister for Health going to take to establish National Medical Health Council standards for lithium and/or lithium compounds in drinking water?
- (4) If lithium levels in Greenbushes water supply should increase in the future, what action is the Minister's department planning to safeguard the health of the townsfolk of Greenbushes, Balingup, Boyup Brook and Bridgetown?

Hon PETER FOSS replied:

(1)-(2)

A safe level of lithium and/or lithium compounds in drinking water has not been set. However, the levels which have been measured in drinking water in Western Australia are a small fraction of those which could pose a risk to health based on the known toxic properties of lithium when used in medical treatment.

- (3) The National Health and Medical Research Council does not set standards for metal levels in drinking water. However, it has produced guideline values based on aesthetic and health considerations for a number of chemicals. Lithium has not been addressed. If in the Health Department of Western Australia's view there is any conceivable risk from drinking this water it will ask the NH&MRC to develop a guideline value for drinking water.
- (4) If monitoring of the water supply were to show increased levels of lithium in the future, the HDWA would assess the data and advise the Water Authority, and if necessary the public, on the suitability of the water for drinking.

WATER SUPPLY - GREENBUSHES, LITHIUM LEVELS

3907. Hon J.A. SCOTT to the Minister for Water Resources:

If lithium levels in Greenbushes water supply should increase in the future, what action is the Minister's department planning to safeguard the health of the townsfolk of Greenbushes, Balingup, Boyup Brook and Bridgetown?

Hon PETER FOSS replied:

The Water Authority would refer the matter to the Health Department for advice. If the Health Department expressed concern, the Water Authority would investigate strategies to overcome the problem.

MINING INDUSTRY - YAMPIRE GORGE MINE, WITTENOOM MINE, COLONIAL MINE, SAFETY WORK

3942. Hon MARK NEVILL to the Minister for Mines:

- (1) What work has been completed on making safe the mine opening at -
 - (a) Yampire Gorge Mine;
 - (b) Wittenoom Mine; and
 - (c) Colonial Mine?
- (2) What was the cost of work undertaken in each case?
- (3) Who undertook this work?
- (4) What supervision of this work was undertaken by Government authorities?

Hon GEORGE CASH replied:

- (1) A feasibility study was completed on 25 August 1995 by Metplant Engineering Services Pty Ltd expert consultants engaged by the Western Australian Building Management Authority. Tender documents will be completed by 15 November and a submission will then be made to Cabinet for funding of the project.
- (2) The cost of consultants includes the study of all the mines and cannot be individually broken down. To date the consultant fees are -

Feasibility study	\$60 017.80
Tender documentation	\$18 744.00
- (3) The consultants engaged for the feasibility study and tender documentation are Metplant Engineering Services Pty Ltd.
- (4) The work was supervised by the BMA in consultation with the Departments of Minerals and Energy, and Commerce and Trade.

MINING INDUSTRY - KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD*Tenement P26-1848 or P26-1858, Environmental Damage*

3974. Hon J.A. SCOTT to the Minister for Mines:

With reference to question on notice 3886 of 17 October 1995, will the Minister advise whether, prior to the installation of the cut off trench between the tailings dam and the tenements referred to and two water reclaim bores, Kalgoorlie Consolidated Gold Mines Pty Ltd caused environmental damage on tenement P26/1848 or P26/1858?

Hon GEORGE CASH replied:

Yes. Investigation showed that ground water had risen within the tenements in question which had in turn resulted from tree deaths. However, Kalgoorlie Consolidated Gold Mines undertook to rectify the situation by the installation of the cut-off trench and water reclaim bores.

QUESTIONS WITHOUT NOTICE

TRAVEL - MINISTER FOR HEALTH
Indonesia Trip

858. Hon SAM PIANTADOSI to the Minister for sewerage and Water Resources representing the Minister for Health:

- (1) Will the Minister advise the names of the Western Australian contingent that visited Jakarta with the Minister for Health for the Health Expo 95?
- (2) Will the Minister table the names of the six Jakarta hospitals they visited?
- (3) What was the purpose of the WA contingent's visit to those hospitals?

Hon PETER FOSS replied:

I thank the member for some notice of this question. Unfortunately, I do not have an answer to this and six other questions directed to me in my capacity as representing the Minister for Health. I understand from the office of the Minister for Health that the delay is in the department. It is an unacceptable delay, and I have asked the Minister to communicate that to the department. I suggest that the member put the question on notice, or I will be happy if it were stood over until Tuesday. I apologise to the member. We should have had an answer by now, and the delay is not acceptable.

Hon SAM PIANTADOSI: The Minister's answer is unacceptable. The question was not directed to the department, but to the Minister.

The DEPUTY PRESIDENT (Hon Barry House): Order! It is questions without notice. Does the member have a question?

TRAVEL - MINISTER FOR HEALTH
Indonesia Trip

859. Hon SAM PIANTADOSI to the Minister for sewerage and Water Resources representing the Minister for Health:

Withdrawal of Remark

Hon E.J. CHARLTON: That is the second time that the member has referred to the Minister as the Minister for sewerage. He should withdraw that statement.

The DEPUTY PRESIDENT (Hon Barry House): Order! The correct title is the Minister for the Environment representing the Minister for Health and that is how he should be referred to. The previous term should be withdrawn.

Hon SAM PIANTADOSI: I withdraw.

Questions without Notice Resumed

Hon SAM PIANTADOSI: My question is directed to the Minister for the Environment representing the Minister for Health:

- (1) Who was the Perth businessman who joined the Minister on a charter flight to Jakarta for the Health Expo 95.
- (2) What interest or part did this Western Australian businessman play in the seminar?

Hon PETER FOSS replied:

As I previously notified, I do not have the answer. I ask that this question be put on notice.

HOSPITALS - GERALDTON REGIONAL

860. Hon BOB THOMAS to the Minister representing the Minister for Health:
I have given some notice of this question.

Hon PETER FOSS replied:

My answer is the same.

**SETTLEMENT INDUSTRY - CONFLICTS OF INTEREST WORKING GROUP
REPORT**

861. Hon JOHN HALDEN to the Minister for the Environment:

When will the conflicts of interest working group which the Minister established to look into conflicts in the settlement industry be reporting?

Hon PETER FOSS replied:

I hope in the not too distant future.

**ENVIRONMENTAL PROTECTION AUTHORITY - BOODARIE HEAVY
INDUSTRY SITE, PORT HEDLAND, ASSESSMENT**

862. Hon J.A. SCOTT to the Minister for the Environment:

(1) Is the Environmental Protection Authority assessing the Boodarie heavy industry site at Port Hedland?

(2) If not, is that a consequence of the Burrup Peninsula court case defining the Boodarie heavy industry site as merely a proposal?

Hon PETER FOSS replied:

I thank the member for some notice of this question. The Environmental Protection Authority's ability to assess the Boodarie heavy industry site at Port Hedland is under review as a consequence of the Burrup Peninsula court case.

ELECTORAL SYSTEM - ONE-VOTE-ONE-VALUE

863. Hon JOHN HALDEN to the Minister for Parliamentary and Electoral Affairs:

(1) Has agreement been reached between the coalition parties to circumvent the introduction of one-vote-one-value electoral reform in both Houses of this Parliament?

(2) If yes, what are the terms of that agreement?

(3) When does the Government propose to introduce legislation to alter the State's electoral laws?

Hon N.F. MOORE replied:

Any arrangements between the coalition parties prior to a decision being made on a policy is the business of the coalition parties and not of Mr Halden.

EDUCATION DEPARTMENT - TEACHERS, LEAVE APPLICATIONS

864. Hon TOM STEPHENS to the Minister for Education:

(1) How many teachers to date have applied for -

(a) leave without pay in excess of six months;

(b) long service leave
for 1996?

(2) How many teachers have applied for -

(a) leave without pay in excess of six months;

(b) long service leave
for 1994 and 1995?

(3) If there is a significant difference between these sets of figures, will the Minister explain the reasons for this difference?

Hon N.F. MOORE replied:

- (1) (a) 576.
(b) 1 815.
- (2) (a) 1994 - these figures are not readily available and will take some time to research and collate. I will provide this information as soon it is available.
1995 - 684.
(b) 1994 - 1 413; 1995 - 1 586.
- (3) There is no significant difference between the figures.

DEMOLITION INDUSTRY - DEATHS; CORONER'S RECOMMENDATIONS

865. Hon CHERYL DAVENPORT to the Minister representing the Minister for Labour Relations:

- (1) How many workers have been killed in the demolition industry each year since 1990?
- (2) Which companies were each of these workers employed by?
- (3) What recommendations did the coroner make about the safety practices in the demolition industry following the inquest into the death of Travers Hazelden?
- (4) Which of those recommendations have been implemented?
- (5) What qualifications or criteria must be met by
 - (a) the employer and
 - (b) the workerto operate in the industry?
- (6) Why has the WA Demolition Industry Association lobbied for a licensing system?
- (7) Why has a licensing system not been implemented?
- (8) When will a licensing system be implemented?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) 1990 - nil; 1991 - one; 1992-1994 - nil; 1995 - one to 18 October 1995.
- (2) Statewide Demolition in both cases.
- (3) On 22 October 1992 Coroner McCann made the following recommendations -
 - (a) The Australian Standard, AS2601 - 1991, for the demolition of structures be adopted as an occupational health, safety and welfare regulation, so far as is practicable.
 - (b) The need to license demolition contractors and demolition workers should be further investigated. Any licensing system should include a provision for training workers.
 - (c) As it is important that the historical documentation relating to the structure to be demolished is available to the demolition contractor, this information should be made available during any tendering process. It would be beneficial, therefore, if standard construction contracts contained such a provision.
 - (d) The Government should consider incorporating such a provision referred to in (c) above in any general conditions of contract.

- (4) Recommendation (a) has been incorporated in the draft Occupational Safety and Health Regulations which are to be released for public comment later this year.
- Recommendation (b) has been the subject of a further review and is currently the subject of deliberation at the National Occupational Health and Safety Commission.
- The intent of recommendation (c) is reflected in the Demolition of Structures Standard AS 2601 - 1991.
- Recommendation (d): The Western Australian Government General Conditions of Contract - NPWX Edition 3 912.81 and Amendments (WA) - has a requirement concerning "Documents Generally and Drawing and Specification" at clause 8.
- (5) (a) There are no formal qualifications to be met by employers in the demolition industry. The employers must ensure compliance with the Occupational Safety and Health Act and regulations.
- (b) There are no formal qualifications to be met by employees in the demolition industry; however, in some circumstances they are required to hold a certificate of competency as required by part 10 of the occupational safety and health regulations - for example, as a rigger or crane driver. Employees are required to comply with the requirements of the Occupational Safety and Health Act, notably section 20, and some provisions of the regulations - for example, the certificate of competency requirements.
- (6) Yes.
- (7) No final decision been made on licensing of demolition contractors pending finalisation of the review of the Occupational Safety and Health Regulations. This review will include a period of public comment.
- (8) I refer to the response to (7). This issue is currently being discussed by the National Occupational Health and Safety Commission and at this stage only one jurisdiction appears to support licensing of demolition contractors.

BIRDS - DEATHS ON TAILINGS DAMS; TELFER

866. Hon J.A. SCOTT to the Minister for Mines:

- (1) How many more bird mortalities associated with tailings dams have occurred annually in Western Australia over the past five years?
- (2) How many birds have been dying monthly in leach vats or tailings dams at Telfer?

I thank the member for some notice of this question.

(1)-(2)

The Department of Minerals and Energy is not able to provide this information as there is no obligation for mine operators to report fauna deaths under the Mining Act or Mines Regulation Act.

Anecdotal information received from inspectors during field visits is that bird deaths on tailings dams across the State have been few in number and sporadic in occurrence over the past five years, although more common in extended periods of very dry weather. Recent years have included several substantial rainfall periods in inland areas, resulting in more extensive retention of surface water accumulations in those areas. This would reduce the tendency for birds to be attracted to supernatant water on tailings dams.

QUESTIONS - TO MINISTER FOR HEALTH, ANSWERS OUTSTANDING

867. Hon KIM CHANCE to the Minister for the Environment:

This is a mechanical question. With respect to the difficulty experienced in the Health Department in regard to the availability of answers to certain questions, to save my having to ask them, does that apply to the two questions which are in my name, which refer to queue jumping at Princess Margaret Hospital, and to Smith Corporation at Rockingham-Kwinana Regional Hospital?

Hon PETER FOSS replied:

For the benefit of all members, the questions to which I do not have answers are from Hon Kim Chance about a radio interview on 6WF, Hon Tom Helm about the Government's response to statements by the Chief Minister for the Northern Territory, Hon Bob Thomas about officers of Arthur Andersen and Geraldton Regional Hospital, Hon Sam Piantadosi about a Perth businessman, Hon Sam Piantadosi about a visit to Jakarta, Hon Bob Thomas about contracting out of non-core services, and Hon Kim Chance about queue jumping at Princess Margaret Hospital.

DRIVERS' LICENCES - HALLAHAN, HON KAY, B AND C CLASS ERROR

868. Hon B.K. DONALDSON to the Minister for Transport:

(1) Can the Minister inform the House whether, as reported in today's *The West Australian*, the additional classes of B and C were added to the driver's licence of the member for Armadale, Hon Kay Hallahan, without the necessary tests having taken place?

(2) If so, what process will be put in place to ensure that all drivers meet the requirements for each driver's licence category?

Hon E.J. CHARLTON replied:

(1)-(2) I did smile, along with everyone else, when I saw the cartoon in *The West Australian* this morning, and I thought what an enormous bull bar it was on that truck!

Hon A.J.G. MacTiernan: You are such a macho!

Hon E.J. CHARLTON: I was not sure which bit was the bull bar! I am pleased that Mrs Hallahan did not run into the back of my car when I was driving along because I would have been swallowed up.

Hon Max Evans: At 160 kilometres!

Hon E.J. CHARLTON: Yes.

Hon John Halden: She would never catch you at the speeds that you do!

Hon E.J. CHARLTON: Exactly. I do not know what speed she was doing. It might have been 160 kilometres.

Hon John Halden: If she was following you, she would need to do that!

Hon E.J. CHARLTON: That is right, and that is going uphill!

As a consequence of Hon Kay Hallahan's serious concern about my capacity to administer driver's licence categories, I have checked it out and found that Hon Kay Hallahan has had a driver's licence since 1960.

Hon Derrick Tomlinson: When she was a policewoman.

Hon E.J. CHARLTON: I do not know for how long she had a licence before that time, but our records go back to 1960.

Several members interjected.

Hon A.J.G. MacTiernan: You blokes are pathetic. Your hatred of women is endemic -

Hon E.J. CHARLTON: The hatred of women!

Hon A.J.G. MacTiernan: Yes. It undermines everything you do. I do not know how people on your side of the House can stand it.

Hon E.J. CHARLTON: Hon Kay Hallahan brought this issue to the attention of the public; I did not. She is most upset that I have allowed her to have a B and C class licence. I can tell members that had I known anything about it, she would never have had one -

Several members interjected.

Hon E.J. CHARLTON: I have 12 points. How many other people here have 12 points left on their driver's licence?

Hon Kay Hallahan has had a driver's licence since 1960. We checked back to see when she achieved the qualifications for B and C class, and that goes back to 1982. As Hon Derrick Tomlinson said, that is when she was a policewoman.

Hon Graham Edwards: Has she been a policewoman since 1982?

Hon E.J. CHARLTON: No, but having been a policewoman, and with her experience in the Police Force, the first thing she should have done when she renewed her licence every year was write back and say, "I have on my licence B and C, but I am not entitled to have them because I do not have the ability to drive vehicles in those categories." Far from criticising me because the department endorsed her licence for those categories, she should have drawn it to the department's attention and sent back the licence.

Hon Kim Chance: I still think you should resign.

Hon E.J. CHARLTON: Obviously; anyone who allowed someone like Hon Kay Hallahan to drive B and C class vehicles would be irresponsible!

We are now taking the appropriate action to ensure that Hon Kay Hallahan will not be able to drive a truck, because from March 1996 - and this is a Western Australian initiative which will be carried out across Western Australia - we will introduce two new categories for heavy rigid trucks and articulated vehicles, so there will be five categories of licence rather than three, and any person who is not currently driving a particular category of vehicle will not be able to hold a licence for that category.

Hon Graham Edwards: When?

Hon E.J. CHARLTON: At the time of the implementation of the new categories. However, any person who is currently driving a vehicle that fits into one of those categories will have that category incorporated automatically. People will have to identify on a regular basis what they are currently driving, and if they are not currently driving a certain category of vehicle, that category will be taken from them. It is all about road safety.

COMMISSION OF ELDERS OF ABORIGINAL PEOPLE - COSTS

869. Hon TOM STEPHENS to the Leader of the House representing the Premier:

- (1) Can the Leader of the House confirm that the Government is bringing together Aboriginal people to form a Commission of Elders?
- (2) If yes, what is the estimated cost of bringing people to Perth to establish this commission?
- (3) What is the projected cost of the Commission of Elders for 1995-96 and 1996-97?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. I am advised by the Premier in the following terms -

- (1) The State Government is bringing together about 120 Aboriginal elders from throughout the State to attend the inaugural Commission of Elders meeting in Perth. The Commission of Elders was a key recommendation of the Task Force on Aboriginal Social Justice. It is the first time such a commission has been established anywhere in Australia, and for the first time, Aboriginal elders will be able to put their concerns directly to the Premier. Elders were elected democratically by their communities to attend the meeting next week. Nominations came from Aboriginal people, and were based on their views of who would be their appropriate representative. Aboriginal people also determined who they considered was an elder for the purpose of the commission. The commission will not usurp the roles of existing organisations such as the Aboriginal and Torres Strait Islander Commission, resource agencies, land councils and cultural organisations. Its establishment is aimed at complementing the work of those organisations and, at the same time, addressing the concerns of elders. Statewide consultations for the inaugural meeting had been occurring since early July.
- (2) \$70 000.
- (3) The projected cost for the Commission of Elders in 1995-96 is approximately \$200 000. Costing for 1996-97 is dependent on decisions by elders and the Government on the future structure of the commission.

HOME BUILDING - ZURHAAR AND DEAR CASE

Builders Registration Board Inquiry, Home Building Case - Dear Complaints against Zuhaar Construction and Melville City Council

870. Hon A.J.G. MacTIERNAN to the Minister for Fair Trading:

- (1) Why has the Builders Registration Board failed to take action against Mr Stephen Zurhaar in respect of building works he undertook at 42 Tain Street, Applecross, without a building licence when -
 - (a) the BRB's own valuation of the cost of these works was \$27 400 - nearly three times the threshold sum of \$10 000; and
 - (b) it is clear from Mr Zurhaar's position as a financial director of an air-conditioning installation company that it is unlikely he could have genuinely estimated the works were under \$10 000 in value?
- (2) Why has the BRB failed to prosecute the Melville City Council or the City of Melville for unlawfully issuing a building licence to Mr Zurhaar, who was neither a registered builder nor an owner builder, when the value of the works was manifestly in excess of \$10 000?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) After investigation of the allegations by the board, the registrar was not satisfied there was any intentional deception by the owner, Mr Zurhaar. An error appeared to have been made in the extent of the scope of the works and the processing of the plans.
- (2) The Builders' Registration Act only provides that it is unlawful for a local authority to issue a building licence to unregistered builders. It is not an offence for which it can be prosecuted.

HOME BUILDING - ZURHAAR AND DEAR CASE

Ombudsman's Report into Conduct of Melville City Council

871. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Local Government:

- (1) Is the Minister aware of the Ombudsman's report into the conduct of the

City of Melville/Melville City Council in respect of a building development at 42 Tain Street, Applecross wherein it was found, *inter alia*, that -

- (a) the council approved plans that involved alteration to the home of another person within the strata scheme without that other person's approval;
 - (b) the council refused to reconsider the approval even when formally advised by a solicitor that the necessary consents had not been obtained;
 - (c) council officers had been unable to explain why several inspections of the construction that they had undertaken following complaints had not shown the substantial unapproved variations that had occurred;
 - (d) the council appeared to be unduly favouring one party in the dispute;
 - (e) the council had accepted unsubstantiated claims about the aggrieved party and had relayed those to third parties to improperly undermine the legitimacy of complaints; and
 - (f) the council had accepted the claims by the applicant that the building works comprised 26 square metres when they were in fact 80 sq m and had unlawfully issued a building licence to the applicant, who was neither a registered builder nor an owner builder?
- (2) What action, if any, does the Minister propose to take in respect of this report?

Hon E.J. CHARLTON replied:

I ask that the question be placed on notice.

FISHERIES - KIMBERLEY INTERIM DEMERSAL LINE

872. Hon KIM CHANCE to the Minister representing the Minister for Fisheries:

- (1) Is the Minister aware of the following sequence of events in respect of the northern demersal fishery -
Applications for the line fishing interim licence closed on 14 April 1995;
a number of fishermen were granted endorsements in August 1995;
many of these endorsements were rescinded in the following month, apparently due to an error by the Fisheries Department;
applications were reopened with a closing date of 20 October but fishermen were not advised in writing that this was the case, nor were they advised that criteria may have changed;
those fishermen whose endorsements were rescinded have not been permitted to fish since 30 September;
the closing date for applications was first extended to 30 October, and it is now thought a further extension to 30 November is proposed, which would mean that endorsements will be unlikely to be granted before the end of the year?
- (2) If the Minister is aware of these events, will he allow licensed fishermen to operate in the fishery until a decision is finally made, or is he prepared to accept that some fishermen will be denied the right to fish for a period of three months?
- (3) As fishermen, and the Kimberley Professional Fishermen's Association,

have paid several hundreds of dollars in fees for service accompanying appeals based on the initial criteria, will the Minister order the return of that money?

Hon E.J. CHARLTON replied:

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

- (1) I am aware of the recent events associated with the introduction of interim management arrangements for the Kimberley interim demersal line fishery. However, I would like to correct a number of misunderstandings evident in the question -

Applications under a process initiated by me in February 1995 did close on 14 April 1995;

a number of fishermen were advised in writing that they had been recommended for endorsement and I acknowledge that the wording in this letter may have led some to believe that the letter was the actual endorsement;

in August 1995 I approved a new management strategy for this fishery which included rescinding the advice in the letter of August and removing all endorsements which may have been issued for this fishery;

this new management strategy was not the result of a departmental error but of new scientific information that indicated the deep water resources were highly susceptible to overfishing and a more conservative approach to management of the fishery was necessary;

fishermen were advised individually, in a letter dated 1 September, of the proposal to change the management strategy and the entry criteria. A second letter dated 27 September set out the new criteria and provided an application form. Advertisements were also placed in state and regional newspapers;

a notice was gazetted on 29 September 1995 closing the fishery to all except eight fishermen whose catch history indicated a commitment and dependence on the fishery. All fishermen, including those eight, have been invited to apply for access under entry criteria to be set within an interim managed fishery management plan for this fishery;

the period for applications has been extended due to various factors, including physical remoteness of some potential applicants, a perceived misunderstanding by some fishermen that they do not need to reapply for access, and the preference to have applications remain open until the making of the new interim management plan for this fishery.

- (2) The reason the decision was made to close the fishery by notice prior to the making of the interim management plan was to conserve the fish resources in this fishery from any short term increase in fishing effort. The fishery is closed to all fishermen except those operating the licensed fishing boats listed in the schedule to the notice. Fishermen who consider they have a commitment and dependence on the demersal line fishery may demonstrate this through application to the executive director in accordance with the procedures provided.
- (3) Fees are payable in respect of objections to the tribunal under the new Act in operation since 1 October. Fees not properly required will be refunded.

HOME BUILDING - ZURHAAR, STEPHEN
SECWA, Electrical Installation Payment

873. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Energy:
 In respect of the answer to question without notice 1162, why did the State Energy Commission of Western Australia pay to regularise an electrical installation made by Mr Stephen Zurhaar in relation to his property at 42 Tain Street, Applecross when such work would normally be Mr Zurhaar's responsibility?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. I have been advised in the following terms by the Minister for Energy -

SECWA paid for this work to be carried out as an error had been made by SECWA in the original ruling for the property - the position of the point of attachment. The work was paid for by SECWA to satisfy both Mr Zurhaar and the owners of the property.

EDUCATION DEPARTMENT - BUCKERIDGE GROUP OF COMPANIES
Ellenbrook Estate, Homes Construction

874. Hon JOHN HALDEN to the Minister for Education:
 Some notice has been given of this question. In reference to an article in the *Sunday Times* of 15 October 1995 titled "Unique school-home start" -
- (1) Can the Minister confirm that the Buckeridge group of companies constructed seven "school-in-a-home" facilities on the Ellenbrook Estate which will be leased by the Education Department for about three years?
 - (2) If yes, what are the financial arrangements between the Education Department and the Buckeridge group of companies for the lease of these facilities?

Hon N.F. MOORE replied:

- (1)-(2) The Buckeridge group of companies is constructing seven homes for Ellenbrook Management Pty Ltd, the manager and agent of the Ellenbrook joint venture. There is no financial arrangement between the Education Department and the Buckeridge group of companies. The Education Department is planning to enter into a lease arrangement with the State Housing Commission, being a participant with Sanwa Vines Pty Ltd in the Ellenbrook joint venture.

VOCATIONAL EDUCATION AND TRAINING BILL - INTRODUCTION
DATE

875. Hon JOHN HALDEN to the Minister for Employment and Training:
- (1) Will the Minister advise when he intends to introduce the new Vocational Education and Training Bill?
 - (2) If it is not to be introduced shortly, will the Minister provide to the House a ministerial statement as to the intent, purposes and goals of this new legislation?

Hon N.F. MOORE replied:

- (1)-(2) As I have indicated in a previous answer, it is my intention to introduce the Bill as soon as possible. That will depend, as the member may understand, on the legislative program and whether or not a Bill of that magnitude can be dealt with between now and the end of the session. It is my desire that the legislation be dealt with before the end of the year but I am not aware of the status of the Bill in that program. In the event that it is not processed this year it will be processed as quickly as possible next

year. Its purpose is to restructure vocational education and training in Western Australia. At present the Education Act covers both school education and vocational education. Those areas have been separate for some time - they were separated by the Labor Government - and it is appropriate that they be covered by separate legislation.

Hon John Halden interjected.

Hon N.F. MOORE: The Department of Training was set up by the Labor Government, not by me. The Education Act historically has been the Act under which vocational education and school education have been administered. That is no longer a practical system. Members will know that we are in the process of rewriting the Education Act and this is an appropriate time to write a Bill covering vocational education and training in Western Australia.

The new legislation will deal with the way in which TAFE colleges operate in Western Australia; the way the Department of Training manages the TAFE sector; the State Training Board and the functions it undertakes; the relationship between the State Training Board and the Industry Training Council network; and the relationship between the Western Australian Government and the Federal Government under the Australian National Training Authority agreement for funding the vocational education training sector. In effect, it will put in place legislation under which the VET sector in Western Australia will operate. It is intended to upgrade significantly the Education Act 1928, some parts of which have not been changed and it is about time they were. I am keen that this Bill be introduced and passed quickly. It is a significant piece of legislation and if it takes a little longer to achieve its status as an Act then so be it.
