

# Legislative Assembly

Thursday, 23 August 1990

THE SPEAKER (Mr Michael Barnett) took the Chair at 10.00 am, and read prayers.

## PETITION - VAN DEN HOEK, MRS FREDRIKA

### *Parole*

DR WATSON (Kenwick) [10.05 am]: I present a petition in the following terms -

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned request that Mrs Fredrika Van Den Hoek should -

- (a) be granted parole on the 5th of September 1990 (her original date of release)
- (b) that the anomaly which restricts her release be deemed inappropriate in this specific individual case
- (c) her age and health be taken into consideration
- (d) she being a model prisoner should secure parole

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

The petition bears 385 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 88.]

## PETITION - LAW AND ORDER, SCARBOROUGH

*West Coast Highway, Ventnor Street, Deanmore and Scarborough Beach Roads - Police Presence Increase*

MR STRICKLAND (Scarborough) [10.07 am]: My petition is couched in the following terms -

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, call upon the Government to increase the police presence in the Scarborough area bounded by West Coast Highway, Ventnor Street, Deanmore Road and Scarborough Beach Road, particularly between 10 pm and 2 am, in order to maintain law and order and restore the basic rights of residents to have peaceful enjoyment of their property.

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

The petition bears 125 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 89.]

## PETITION - ABORTION

*Unborn Child Protection Legislation*

MR MacKINNON (Jandakot - Leader of the Opposition) [10.08 am]: I present a petition couched in the following terms -

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We the undersigned maintain that the unborn child is an individual human person and at all times should be protected by the law.

We reject the proposition that any woman has the right to choose to kill the unborn child.

We plead that the Criminal Code, sections 259 and 290, that protect the unborn child, be not amended.

Your petitioners therefore humbly pray that you will give this matter earnest consideration.

The petition bears 86 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 90.]

### PETITION - MOUNT LESUEUR

#### *Coal Mining or Power Stations - Opposition*

MR KIERATH (Riverton) [10.09 am]: My petition reads as follows -

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, request that the Parliament, in recognition of the immense biological diversity and importance of the Mt Lesueur area -

- (1) create a National Park with boundaries as recommended by the Environmental Protection Authority,
- (2) no coal mining or power stations be permitted within the boundaries or adjacent to the Mt Lesueur National Park.

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

The petition bears 141 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 91.]

### PETITION - FOOD ADDITIVES

#### *Supermarkets and Food Outlets Display Chart*

MR KIERATH (Riverton) [10.10 am]: I present a petition which reads as follows -

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We the undersigned hereby petition that the Government require all supermarkets and food outlets to display clearly a chart detailing the coding used in food additives, thereby allowing the consumer to know which chemicals are used in the product. The consumer can then exercise freedom of choice in deciding whether or not to use the product. The chart should also warn of the possible harmful effects of food colourings, especially Red E123, and Yellow E102, (carmoisine and tartrazine), until it has been proven that these additives are not injurious to health.

The petition bears 78 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 92.]

### BILLS (3): MESSAGES

#### *Appropriations*

Messages from the Governor received and read recommending appropriations for the purposes of the following Bills -

1. Transport Co-ordination Amendment Bill
2. Government Railways Amendment Bill
3. Racing Penalties (Appeals) Bill

## TRANSPORT CO-ORDINATION AMENDMENT BILL

### *Second Reading*

MRS BEGGS (Whitford - Minister for Transport) [10.15 am]: I move -

That the Bill be now read a second time.

As honourable members will have noticed, this is a short and simple Bill and its sole intent is to clarify the power of the Minister for Transport to pay transport subsidies and to meet certain transport operation shortfalls.

Back in 1988, when the Crown Law Department was undertaking some work on the Eastern Goldfields Transport Board Act, the Crown Solicitor's office made the following observation -

It would in fact appear to be of doubt that for the purposes of Section 62(3)(a) of the Transport Co-ordination Act, the Eastern Goldfields service is a service for which the Minister for Transport has a responsibility under the Transport Co-ordination Act 1966.

For a number of years, the Minister - through the Department of Transport - has met part of the operating shortfall of the Eastern Goldfields Transport Board operations, together with a variety of other transport subsidies including:

- Regular road service subsidies in country regions;
- pensioner travel subsidy schemes in country towns;
- students travel subsidies from remote country locations;
- provision of multi purpose taxis to cater for disabled passengers, and so forth.

The SPEAKER: Order! The background noise is really intolerable. If it is to vital to have these conversations, members should show the House the courtesy of holding them elsewhere.

Mrs BEGGS: In view of the 1988 Crown Law observation, it was determined that the Transport Co-ordination Act should be amended to clarify the position, and to remove any doubts that might have existed relative to the various subsidy payments.

This Bill serves that purpose, and I commend it to the House.

Debate adjourned, on motion by Mr Blaikie.

## GOVERNMENT RAILWAYS AMENDMENT BILL

### *Second Reading*

MRS BEGGS (Whitford - Minister for Transport) [10.17 am]: I move -

That the Bill be now read a second time.

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

The Government's objective is to realise benefits for Westrail and the State through the elimination of unnecessarily complicated accounting work and wasteful duplication of effort arising from the present expenditure implesting system and the operation of multiple bank accounts. The new procedures utilising one major bank account will also give Westrail greater responsibility for, and control over, the management of its cash and working capital resources. The greater responsibility and control provided will not diminish Westrail's accountability to Government. Both the Under Treasurer and the Director General of Transport have been consulted and have endorsed the proposals to provide more progressive and efficient accounting and financial control arrangements. Opportunity has also been taken, at Treasury's suggestion, to simplify and modernise the provisions of the Government Railways Act relating to Westrail's borrowing powers. As Westrail is currently subject to Treasurer's approval of its borrowing powers and related provisions, these changes do not, in effect, alter Westrail's rights and responsibilities.

Although a major aim of the amendment Bill is to reduce the number of Westrail bank accounts, with Treasury advice provision has been made to enable Westrail to hold foreign currency funds in offshore accounts. If used at all, such accounts would only be operated on a short term basis for particular exchange rate risk hedging purposes, and subject to specific Treasury approval.

Transitional provisions are included in the Bill to transfer any moneys in the accounts to be closed to the new general fund account and to allow any existing liabilities and obligations relating to borrowing powers to continue. The Bill provides for implementation of the changes from a date to be fixed by proclamation. Although the most convenient starting date would coincide with the commencement of a financial year, the changeover can be made from the commencement of any calendar month and the intention is to make the changeover as soon as practicable after the amendment has been considered and passed by the Parliament.

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

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

I commend the Bill to the House.

Debate adjourned, on motion by Mr Blaikie.

## PEARLING BILL

### *Second Reading*

MR GORDON HILL (Helena - Minister for Fisheries) [10.20 am]: I move -

That the Bill be now read a second time.

Pearling in Western Australia has been managed under the Western Australian Pearling Act 1912 and the Commonwealth Continental Shelf (Living Natural Resources) Act 1968. However, pearling as an industry goes back far beyond 1912, having started in the Shark Bay area more than 140 years. It is one of the more romantic tales in the history of the State and a certain mystique surrounds the taking of pearls and its associated industries. It is indeed a fascinating industry. However, the reality of the industry throughout its history in many ways belies its romantic image. Conditions in the industry and on pearling luggers were in the past largely primitive and harsh. Divers and crew were faced with appalling environmental problems such as cyclones and the affliction of the bends, and with economic problems such as fluctuating product prices and the introduction of cultured pearls internationally after the second World War. Throughout all of this, pearling has grown to be an industry worth an estimated \$60 million to Western Australia.

This unique industry is covered by laws now regarded by many people, including the

industry itself, as out of touch. This Bill represents the biggest rewrite of the Act since its introduction, and reflects the importance of an industry with a fascinating past and an economic future which is important to all of us.

The introduction of the fisheries segment of the Offshore Constitutional Settlement led to the necessity for a review of all managed fisheries in Western Australia including pearling. Negotiations with the Commonwealth resulted in agreement being reached that the pearling industry be managed under an OCS arrangement using the authority of Western Australian law. To accomplish this effectively meant that the Pearling Act be updated. As well as updating the Act to enable the OCS arrangement to proceed, it had been recognised for some time that the Act was inadequate in that it related more to the taking of pearl shell for use as mother-of-pearl and not the culture of pearls. A detailed examination and review of the Act was therefore undertaken and that review clearly confirmed that the Act was no longer relevant to the pearling industry as it operated today. The present Act regulates the planting, cultivation and propagation of pearl oyster shell and, by way of licence, the right to gather, collect and remove pearl shell and pearls within or from specific areas of the territorial waters of Western Australia. The Act is silent in relation to the cultivation of pearls which is now the major activity of the industry. The taking of shell for mother-of-pearl is only allowed in exceptional circumstances.

Since enactment of the principal Act in 1912 there have been 12 amending Acts. Perhaps the most significant of these was the 1949 amendment Act which removed the prohibition on the dealing in cultured pearls in Western Australia; that prohibition having been included in the Act in 1922.

As already stated, there are many provisions in the Act which are no longer relevant. These include such matters as the requirement for superintendents and inspectors to sign persons engaged in the industry on and off and the prohibition on female pearl fishers. Quite clearly this latter provision offends the Commonwealth Sex Discrimination Act, the Western Australian Equal Opportunity Act, the Government and the community generally. I might add that this provision has not been enforced by the Fisheries Department for some years, but the provision needs to be removed. The matter of what licences are required was also addressed. These covered such occupations connected with pearling as pearl cleaners, shell buyers, pearl dealers and beachcombers. Clearly with the changes that have occurred, these licences are no longer needed. I will deal with the matter of licensing in more detail at a later stage.

In 1987 the Government in conjunction with the Commonwealth established the Pearling Industry Review Committee to review and assess the structure and operations of the pearl culture industry. The review committee was requested "to review, and report upon its recommendation with respect to the future development and management of the pearl culture industry along the coast of Western Australia (other than in the Shark Bay region) in accordance with the following terms of reference -

1. To investigate and advise on the best means of preservation and enhancement of naturally occurring sources of pearl oysters and the management of access thereto by the pearl culture industry, so as to ensure the future stability and satisfactory operation of that industry, and in particular to advise on -
  - (a) the options in both the short term and long term, in respect of the assessment and determination of applications by proposed new entrants to the pearl culture industry, following the expiry of the then current restrictions at the end of 1987;
  - (b) the most appropriate ongoing system of determining and allocating quotas for pearl oyster collection in the pearl culture industry;
  - (c) the use of "holding areas" in the operations of the pearl culture industry and the most appropriate manner of future regulation of the practice.
2. To advise on any improvements which may be appropriate in the provision of pearl farm lease areas and in the nature of those leases.
3. Taking account of 1 above, to comment on the current development and provision within the pearling industry of hatchery-produced pearl oysters, and

advise on the appropriate future role of such production and recommend measures which might be taken in that regard by the industry or Government.

4. To comment on such other matters incidental to or arising out of the foregoing which are considered to warrant special attention in achieving the objectives of this review."

While the terms of reference for the committee as outlined above did not include a review of the Pearling Act, some of the recommendations from the report have formed the basis for provisions in the new Pearling Act, and of course will be useful in formulating the requirements of subsidiary legislation for the future management of the industry.

I turn now to the major features contained in the new Act. It is not my intention to go through every section but rather to deal with it under broad headings.

**Pearling and hatchery activities.**

Pearling is defined as meaning -

- (a) taking pearl oysters;
- (b) removing pearls from pearl oysters;
- (c) moving, dumping, holding, storing or transporting pearl oysters;
- (d) practising pearl culture techniques; ie any technique or practice used to produce pearls from pearl oysters.

Hatchery activities are defined as meaning -

- (a) taking pearl oyster spat;
- (b) taking pearl oysters for breeding stock;
- (c) producing stocks of pearl oysters by acclimatisation, propagation, hatching, breeding, rearing or raising;
- (d) moving, dumping, holding, storing or transporting pearl oysters or pearl oyster spat for any of the purposes outlined above.

The culture of pearls and the hatchery production of pearl oysters are important aspects of the present day pearling industry. The hatchery production of pearl oysters, although still in the developmental stage, is probably the most significant factor which could impact on the pearling industry in the future. Uncontrolled production of pearl oysters could well lead to overproduction of pearls which would have serious consequences for the marketing of pearls.

Separate licences will be required to carry out pearling and hatchery activities; that is, a licence to carry out pearling does not give the right to carry out hatchery activities and vice versa. Provision has been made for the issue of permits for the purpose of research or investigation or for other purposes which may be prescribed.

The major tool to be used in the management of the industry will be the imposition of quotas to limit the number of wild stock oysters which may be taken, and also to limit the production and sale of oysters from hatchery produced stock.

Other licences required are -

- (a) pearl boat - all boats, other than those used exclusively on a pearl farm, must be licensed;
- (b) pearl boat master - which can only be held by an individual. This type of licence must be held by any person in charge of a licensed pearling boat;
- (c) pearl divers - all divers engaged in the pearling industry will be required to hold a licence. This applies whether taking shell from the wild, diving on dumps, holding areas or the pearl farm. As with the pearl boat master, only an individual may hold a diver's licence.

While on the subject of diving within the pearling industry, I point out that all divers will be required to undertake a medical examination which complies with Australian Standard 2299. The pearling industry itself recognises that it has obligations under occupational health, safety and welfare legislation and to this end has embarked on a project of developing dive profiles specifically for the industry.

Training and education of divers is also another aspect which is receiving attention by industry. The Pearl Producers Association has appointed a diving safety officer. Apart from the requirement to undergo the medical examination mentioned previously, the Pearling Act will not, quite properly, cover matters related to occupational health, safety and welfare. All licences and permits may be subject to conditions and will generally be granted for a 12 month period. As with all licences, fees are payable. The annual fee for pearling and hatchery licences and permit fees will be paid to the fisheries research and development fund to be used for research and in meeting a proportion of the costs of management of the industry. All other fees will be paid to Consolidated Revenue.

Farm leases, that is, the area of waters where the major portion of the pearl growout occurs, will be issued only to the holders of a pearling or hatchery licence. These leases may be issued for a period not exceeding 21 years. The existing Act provides for a maximum period of 14 years. It should be noted that the issue of a farm lease is not as of right and may be cancelled if it is not being used. This is to avoid areas of water being "tied up" unnecessarily. The maximum area of any one lease is four square nautical miles which is the same as the existing Act.

#### Guidelines and discretionary powers.

Provision has been made for the issue of policy guidelines by the Minister. These guidelines will be issued for the assistance of the executive director and the information of those engaged in the industry. They will cover those matters considered by the Minister to be of significance in the management of the pearling industry. The use of guidelines in the pearling industry follows the same principle as that used for the processing sector of the fishing industry. The Act does not "spell out" the detail to be included but will cover policy matters related to the grant, renewal and transfer of pearling and hatchery licences.

Foreign ownership in the pearling industry is an issue and this subject will be addressed in the guidelines in much the same way as I addressed this issue for the fishing processing sector last year when I released a set of guidelines which I tabled in this Parliament. I hasten to add that it will not affect current licence holders whilst they hold those licences. The issue of guidelines does not detract from the discretionary powers of the executive director or Minister included in the Act. Concerns are sometimes expressed from various quarters about the granting of discretionary powers. However, these powers cannot be used capriciously and I take this opportunity to quote from a 1989 Western Australian Supreme Court decision where the presiding judge stated -

It should be clearly understood that the use of discretionary powers would have to be exercised for the purposes for which they were granted and in conformity with the policy discernible from perusal of the Act and in accordance with the provisions of natural justice.

The general administrative functions of the Act will be the province of the executive director with the right of appeal to the Minister. Matters for which a right of appeal from orders or decisions of the executive director are the -

- (a) issue of a farm lease, pearling or hatchery licence or permit either unconditionally or subject to conditions;
- (b) sale of hatchery produced pearl oysters;
- (c) removal of pearl oysters from holding areas or dumps to the pearl farm by a specified date;
- (d) exclusion of persons from a pearl oyster farm;
- (e) imposition of conditions on licences;
- (f) refusal to issue or renew a farm lease, pearling or hatchery licence or permit;
- (g) cancellation or suspension of a licence or permit;
- (h) cancellation of a farm lease where it is considered the lease is not being used in the better interests of the pearling industry;
- (i) refusal to transfer a farm lease, pearling or hatchery licence;
- (j) transfer of part or all of the quota of pearl oysters;

- (k) transfer of part or all of the quota of pearl oysters produced under a hatchery licence that may be used or sold for breeding stock or pearl culture; and
- (l) forfeiture of seized pearl oysters or spat.

From the foregoing it can be seen that there are extensive rights of appeal. The effect of an appeal will be to put a "stay" on the decision or order of the executive director pending determination of the appeal.

#### Inspection.

All fisheries inspectors will automatically be inspectors under the Pearling Act. Generally speaking, the powers of inspectors are the same as those under the Fisheries Act modified to relate to the pearling industry. The power of arrest granted to fisheries inspectors has been used very carefully over many years and has not been abused. Therefore, pearling inspectors will have the power of arrest without warrant but only if an inspector has reason to believe that -

- (a) it is necessary to prevent the offence from continuing;
- (b) any other procedure for dealing with the offence would not be effective.

In all other cases a warrant will be required. It is considered that the foregoing is a reasonable power to enable inspectors to carry out their duties.

#### Pearling Industry Advisory Committee.

A pearling industry advisory committee will be appointed under the Act to advise the Minister or executive director in relation to -

- (a) management, control, production, regulation or development of pearling;
- (b) pearl oysters;
- (c) pearl oyster hatcheries;
- (d) pearl oyster fisheries.

Membership of the committee is not detailed to enable flexibility in making appointments.

#### Commonwealth-State Management.

As mentioned earlier, the pearling industry is to be managed under Western Australian law and an offshore constitutional settlement arrangement. The provisions contained in the Act will enable the establishment of these arrangements. They are, where necessary, a repeat of the provisions in the Fisheries Act modified to refer to the pearl oyster fishery. Any arrangement entered into will cover the taking of pearl oysters from wild stocks, but will not cover hatcheries and farm leases.

#### Penalties.

The matter of penalties is generally a contentious issue. The proposed penalties contained in the Bill are acknowledged as being heavy. However, it must be remembered that because of the difficult nature of detecting offences, the penalties must be such that they act as a deterrent. Detection of offences is more difficult in the pearling industry as the major portion of activities occurs under water.

I will now outline the major offences and penalties -

- (1) Unlicensed pearling or hatchery activities \$50 000 plus twice the wholesale value of the pearl oysters or pearl oyster spat, the subject of the offence. This additional penalty is irreducible.
- (2) Contravention of a condition on a pearling or hatchery licence other than conditions relating to quota or the area of waters where pearling or hatchery activities may be carried out - \$10 000.
- (3) Contravention of a condition relating to quota -
  - (a) Where there are less than 100 pearl oysters involved in the offence -
    - (i) First offence \$10 000.
    - (ii) Second offence (in 10 years) \$40 000 plus reduction in quota for two years rounded up to the nearest 1 000.



- (iii) Third offence (in 10 years) \$100 000 plus permanent reduction in quota rounded up to the nearest 1 000.
- (b) Where there are more than 100 pearl oysters involved in the offence -
  - (i) First offence \$40 000 plus reduction in quota for two years if the excess number is less than 1 000 or a period of three years if the excess number exceeds 1 000 and in both cases rounded up to the nearest 1 000.
  - (ii) Second offence (in 10 years) \$100 000 plus permanent reduction in quota rounded up to the nearest 1 000.

Reduction of quota applies where an offence is committed with the knowledge of the holder of the licence. The onus of proving that an offence was committed without such knowledge rests with the licence holder.

- (4) Contravention of a regulation relating to -
  - (a) identification of pearl oysters;
  - (b) identification or use of containers for holding pearl oysters; and
  - (c) taking, transportation, collection, holding, dumping or storing pearl oysters.

Pearl oysters the subject of these offences will be deemed to have been taken in excess of quota, contrary to a condition of licence.

The monetary penalties are the same as those applicable for offences involving contravention of conditions relating to quota which I have already covered.

- (5) Contravention of a condition relating to areas of water where pearling or hatchery activities may be carried out, \$50 000 plus further penalty of twice the wholesale value of the pearl oysters or spat, the subject of the offence. This additional penalty is irreducible.
 

If a licensee is convicted three times in 10 years of offences contrary to licence conditions, the licence against which all or the majority of those offences was committed is automatically cancelled.
- (6) Sale of hatchery produced pearl oysters without the written approval of the executive director, \$10 000 plus an irreducible additional penalty being twice the wholesale value of those hatchery produced pearl oysters.
- (7) Obstructing, assaulting, etc an inspector, \$20 000.
- (8) Other offences such as not holding a diver's licence range from \$1 000 to \$10 000.

The pearling industry is in general agreement with the penalties except the "rounding up" provisions in relation to quota management and the automatic cancellation of a licence if three offences are committed in 10 years. Quota management is to be on the basis of units of 1 000 pearl oysters, for offences relating to taking excess quota, any reduction is to be rounded up to the nearest 1 000. The pearling industry has submitted that any round up should be to 100. I do not agree with industry for the reason outlined. There is power to seize pearl oysters or pearl oyster spat, boats and equipment. On conviction these items are forfeited to the Crown. Because of the value which can attach to pearl oysters particularly, the executive director, with the approval of the Minister, may sell seized pearl oysters, or they may be bonded and held by the person alleged to have committed the offence, on payment to the executive director of an amount not exceeding the wholesale value of the pearl oysters.

One further point I wish to make in relation to convictions for offences by a body corporate is that any director, manager, secretary, or any other officer of the body corporate, or any person purporting to act in any of the foregoing positions, is also guilty of the offence if it can be proved that the offence occurred with the consent of, or is attributable to any neglect by, such a person. This places responsibility to see that the "rules" relating to management of the industry are properly observed.

Clearly the existing Pearling Act is unsatisfactory and the Bill, apart from my earlier reference to penalties, has the support of the pearling industry. I reiterate that the pearling industry is a very valuable industry to the State and is the second most valuable fishery in Western Australia.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Blaikie.

## PARLIAMENT HOUSE - GUESTS

### *Speaker of the East Java Parliament and Companion*

**THE SPEAKER** (Mr Michael Barnett): Before calling on the Minister for Fisheries to advise us in respect of the next Bill listed on the Notice Paper I point out to members that we have as our guests in the Speaker's Gallery Madam Soenardi, who is the Speaker of the East Java Parliament, and her companion Mrs Atic. I welcome them to this Parliament and I hope they have enjoyed their visit to Western Australia and that our sister State/Province relationship will blossom. I thank them for coming.

[Applause.]

## FISHERIES AMENDMENT BILL

### *Second Reading*

**MR GORDON HILL** (Helena - Minister for Fisheries) [10.44 am]: I move -

That the Bill be now read a second time.

This Bill is consequential to the Pearling Bill 1990 and amends the Fisheries Act. The amendments are technical in nature. Among other things they will apply the provisions of the Fisheries Act to all pearl oysters other than those declared to be pearl oysters for the purposes of the Pearling Bill.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Blaikie.

## FISHERIES ADJUSTMENT SCHEMES AMENDMENT BILL

### *Second Reading*

**MR GORDON HILL** (Helena - Minister for Fisheries) [10.45 am]: I move -

That the Bill be now read a second time.

In 1987 this Government introduced the fisheries adjustment schemes legislation at the request of the fishing industry to enable implementation of an adjustment scheme in the general line fishery. Subsequently in 1988 a fisheries adjustment scheme was established in respect of all fisheries in the State. The purpose of the scheme is to allow people in the fishing industry to buy back licences held in a particular fishery and thus rationalise the number of professionals exploiting the fish stocks. That adjustment scheme is funded on a dollar-for-dollar basis between industry and Government. It is due to terminate in 1993. The scheme has been successful to the extent that as at 30 June 1990, 54 licences have been removed from the fishing industry at a cost of \$618 700.

In March and April this year adjustment schemes were put in place to reduce the number of licensed boats in the Shark Bay and Exmouth Gulf prawn limited-entry fisheries. These schemes are totally industry funded. The Fisheries Adjustment Schemes Act provides for the establishment of such schemes and requires that an invitation to eligible persons to surrender their licence under a scheme be published in a newspaper circulating throughout the State and in *Fishing Industry News Service*.

As schemes for particular fisheries such as those for the Shark Bay and Exmouth Gulf prawn fisheries are the result of agreement between licensees in the particular fishery, the calling of invitations in this manner is seen as being superfluous and incurring unnecessary costs. It is proposed to amend the Act to reflect this situation. It should be noted also that FINS is now titled *Western Fisheries* and the Act is to be amended to reflect the new title.

There is a provision in the Act which states that the Minister shall be assisted in the administration of a fisheries adjustment scheme by a committee of management. However, another provision states that the Minister may establish such a committee. On Crown Law Department advice an amendment has been included in the Bill to remove this anomaly.

The Act provides for the prescribing of a levy, payable by licensees, in respect of fishing units to which a scheme applies. It further provides that any levy payable constitutes a debt due to the Minister and may be sued for and recovered by court action. While this provision is satisfactory for "general" adjustment schemes, it is considered that for particular fisheries adjustment schemes provision should be made that until such time as the levy is paid a boat cannot be used to take fish within the fishery whether or not the particular limited entry licence fee has been paid. A penalty of \$20 000 has been provided for a breach of this provision.

It has also been found that the use of the term "levy" causes some confusion within the industry. For the sake of clarity the term "levy" is to be substituted with "fee".

In summary the Bill contains amendments to -

1. Enable easier administration for particular fishery adjustment schemes.
2. Remove an anomaly in relation to committees of management.
3. Replace the term "levy" with "fee".

I commend the Bill to the House.

Debate adjourned, on motion by Mr Blaikie.

## FINANCIAL ADMINISTRATION AND AUDIT AMENDMENT BILL

### *Third Reading*

Bill read a third time, on motion by Mr Pearce (Leader of the House), and transmitted to the Council.

## RACECOURSE DEVELOPMENT AMENDMENT BILL

### *Report*

Report of Committee adopted.

## MINING DEVELOPMENT ACT REPEAL BILL

### *Second Reading*

Debate resumed from 5 July.

**MR COURT** (Nedlands) [10.53 am]: It is refreshing to see a piece of legislation in this House which repeals an Act which took so many days to be brought into the House. When the Minister read the Pearling Bill, it indicated that unfortunately more regulations would be introduced. It is good news that this Bill will eliminate some regulations.

**Mr Gordon Hill**: Do you disagree with regulations in the pearling industry?

**Mr COURT**: There is a limit to how far one can go with legislation.

**Mr Gordon Hill**: Do you think that Bill is over the top?

**Mr COURT**: I saw it for the first time today and I will certainly do my homework on it. As a general principle I firmly believe in self-regulation where possible, because once Governments become involved in industry regulation, from my experience, disaster occurs.

**Mr Gordon Hill**: I do not agree with that statement, but I agree with the general principle.

**Mr COURT**: This legislation was originally introduced to control the operations of the State Batteries. It could have become one of the earlier forms of WA Inc because it handed out financial subsidies and assistance in the form of loans to miners to develop the mines. The operations of the State Batteries have long since been transferred to the Minister under the Gold Banking Corporation Act passed in this House in 1987. Therefore, that operation is no longer required.

I have been assured by the Government that it has not provided any loans or financial assistance under this legislation for some time. Earlier this week, I asked the Minister if he would mind my talking to one of the officers from the Department of Mines to find out a little about the provision of loans and subsidies to the industry. He generously agreed to my request. I was mainly interested in the background and the amount of finance Governments had handed out over the years. I was advised that the department's records did not enable easy investigation of the assistance that had been given over the years. No doubt one day some very keen students of history will research the records. Possibly a student who is examining the extent of Government assistance provided to industry over the years will be able to determine what financial assistance was given.

Interestingly, financial assistance was introduced to encourage small prospectors. In the early days of the legislation, the assistance was in the form of a weekly subsistence income to provide a prospector with a bare income to live on while he was trying to prove up a deposit. The Government took out what it called ministerial mortgages; that is, it provided a loan and took out a mortgage over the mining tenements, tools of trade or any other property the miner owned. The last loan the department is aware of occurred in the early 1970s. The loan was provided to a small operation near Meekatharra and was paid out in the mid-1980s. A number of applications were made under the legislation. No doubt some of the sharp money boys and girls would exploit legislation like this which provided an avenue for the Government to give assistance. In the late 1970s, which was the beginning of a slight boom period in exploration and the establishment of goldmines, a number of applications were made. However, they were refused because by that stage many other financial options were available to the industry.

I suppose the most modern form of financing some of the new projects, which has been largely pioneered in this State, has been by gold loans. By this method, people who own companies which have been able to prove up a deposit have approached a bank saying they believed they would be able to mine a certain number of ounces of gold per year and that they would be able to return the gold. The gold loans enabled the miners to receive cash upfront to allow them to proceed with the development of the project. As the gold came on stream, they were able to repay that loan in gold. This is a novel and innovative form of finance. However, like any form of finance it has its pitfalls.

I believe the R & I Bank is experiencing some of those pitfalls at present. Some problems the bank has with bad loans are related to the gold industry, in which money has been lent on projects that are not producing as they were expected to produce. The skill required by banks when issuing gold loans is in ensuring that the geological information provided to the bankers is sound and that the mining process and plant, etc, is able to produce what the miners say it can produce. In Western Australia, the ore in some of the mines being opened is of marginal grade. I will not name any, but in recent months I have visited a couple of these mines which involve huge investments. However, when the companies began mining, they were unable to produce what was originally expected. In one case this has occurred because the ore body is far harder than anticipated. The equipment is wearing out very quickly and the crushers cannot handle the required amounts; the mine is facing a pretty tough time financially. It is hoped that the recent slight increase in the gold price will help some of those marginal projects. However, those are the risks companies take in any business. The method of arranging finance for the mining companies has gone through a different phase.

It is refreshing that this legislation is to be repealed and removed from the Statute book. We are all aware that the mining industry plays an important role in the economy of this State. Many of the small operators have faced extreme difficulty during the last couple of years in either getting finance for new projects or refinancing existing ones. Much of that problem has been associated with the bad reputation of this State in financial circles. This has arisen for a number of reasons, the first of which is the Government's involvement in WA Inc dealings; the second is the fact that certain people who travelled to Europe and raised funds - either on the stock market or through banks - have companies which have not performed in the way they promised. This State's name is tarnished at the moment. It is extremely difficult for the gold industry, in particular, to get finance for new projects because of this. I do not support the concept of the Government's providing finance for these projects, but one of the positive things it could do is help restore confidence in the investment climate in this

State so that we can again attract new investments to the mining industry and in particular the goldmining industry, which is critical to this State.

I was interested to learn the history of the loan assistance given to these companies. Considerable assistance was given to them during the Depression years when the goldmining industry was seen as a way to boost the economy. In the past couple of decades the serious operators in the industry have been getting their finance from other areas. As has been pointed out previously, assistance given in the early days was to provide a subsistence income for prospectors trying to establish themselves in the industry. In recent years there has been a rationalisation of the operation of the State Batteries, which the Opposition has supported, by and large. Some of the remaining operations are involved in controversy because of possible expansion of one of the operations at the Kalgoorlie refinery site where there is talk of expanding the mill. Is the Minister aware of that intention and, if so, will he explain it when he replies? What do they intend doing with the Kalgoorlie operation? I am told it is losing a lot of money.

Mr Carr: I am not aware of any matters related to that issue.

Mr COURT: Does it come under the Minister's responsibility?

Mr Carr: The refining?

Mr COURT: No; it is on the same side as refining but has been separated and comes under the State Batteries' operations, which are handled by Gold Corporation, are they not?

Mr Carr: Yes.

Mr COURT: Is that handled by the Deputy Premier?

Mr Carr: I am not sure whether it is handled by the Deputy Premier or the Premier.

Mr COURT: It is pleasing to be repealing legislation that is no longer necessary. It is good to get it off the Statute book because we had the experience of this Government using similar legislation and saying, "Here is a Bill which enables us to provide subsidies and assistance in the form of loans to the mining industry," and before we know it we would have another WA Inc starting up using the Mining Development Act. Therefore I am pleased it will be removed from the Statute book so that the Government is not faced with the temptation to hand out more money, because we have been burnt in that way for too long.

I support the legislation.

MR COWAN (Merredin - Leader of the National Party) [11.04 am]: Although this legislation will be repealed I must point out to the member for Nedlands that the opportunity still exists for the Government to offer those loans through the gold division of the R & I Bank.

Mr Court: The Leader of the National Party missed my earlier comments.

Mr COWAN: No, I did not. The National Party supports the Bill because the legislation no longer has any validity. As the Minister pointed out in his second reading speech, the State Batteries were transferred from the auspices of the Mining Development Act to the Western Australian Mint when the Gold Banking Corporation Act was passed. I notice that the Minister talked about the transfer of the State Batteries in his second reading speech and the fact that responsibility for the batteries has been transferred from this legislation to the Gold Banking Corporation. However, he did not talk about the consequences of that action. I can tell members that the consequences were that the State Batteries no longer operate, with one or two exceptions.

Mr Carr: There are certainly not many.

Mr COWAN: Perhaps it might have been more accurate for the Minister to comment that the Government no longer operates the number of batteries that existed previously around the goldfields of Western Australia.

As I understand it, it has been quite some time since the last loan to a person in the mining industry was granted. In fact, loans relating to this legislation have long since been paid out and I think the mortgages have been discharged.

I do not think I will be in breach of Standing Orders if I comment on Select Committees at this time. I happen to be on a Select Committee reviewing the Constitution and it is pleasing

to see that this legislation is doing part of our work. We are examining obsolete and spent sections of the Constitution which no longer have validity, so I congratulate the Minister on accomplishing part of our work for us through this Bill.

The National Party supports the legislation.

**MR CARR** (Geraldton - Minister for Mines) [11.07 am]: I thank members for their support of the legislation.

Question put and passed.

Bill read a second time.

## EXPLOSIVES AND DANGEROUS GOODS AMENDMENT BILL

### *Second Reading*

Debate resumed from 31 May.

**MR COURT** (Nedlands) [11.10 am]: It is crucial that we have effective regulations in respect of explosives and dangerous goods, particularly because this country is becoming highly industrialised. The Department of Mines has recognised the need to update the existing legislation. The Liberal Party has had discussions with the industry and with the Department of Mines, and will support this Bill. We envisage that during the next few decades, Western Australia will go through some major new phases of development in the primary and resources industries. The development of oil, gas and related industries is an important part of that growth.

One of the key elements of this legislation is a definition of "pipeline" to support the licensing requirement and control of pipelines carrying dangerous goods because at present there is concern about the legality of the existing legislation. Petroleum products, flammable liquids and gases are covered by legislation which is administered by the State Energy Commission and the Department of Mines. Extensive pipeline systems have been developed for corrosives, LPG, ammonia and chlorides. That is highlighted in Kwinana, where there is extensive movement of these products both in and out of Kwinana and between different operations at Kwinana. The proposals we would like to see established for the Pilbara region would involve a similar sort of complex, where goods would be moved between different industries. The conveyance of flammable liquids and oils by pipeline has been controlled under the flammable liquids regulations 1967, but I am led to believe there are some question marks about whether these regulations properly cover the situation. This legislation will ensure that we do not have uncertainties in the existing law.

A few years ago, while a member of this House, I had an interesting educational experience when I went on a trip with the member for Cockburn, courtesy of the Government, to inspect some petrochemical operations in other countries. It was quite an eye opener to see in Houston, Texas, mile after mile of refineries and petrochemical plants, and a huge complex grid of pipelines.

**Mr Cowan**: You got out just in time.

**Mr COURT**: Yes, because one of them blew up just after we had been there. There is a huge movement of explosives and dangerous goods in tankers, ships and railcars around the United States. Development on that scale is not yet occurring in Western Australia, but we are seeing an increasing movement of dangerous goods around the State. This includes chemicals for the agricultural and mining industries. At present there is some controversy about the transportation of liquid sodium cyanide for the mining industry and also about ammonium nitrate coming into the Port of Esperance. That seems to me to be an unusual controversy because I thought ammonium nitrate had been moving pretty freely through ports for some years.

When I worked at Mt Newman some years ago we used to work daily with that product. We also used dynamite. That was in the very early stages of construction at Mt Newman. I remember a day when a semitrailer load of dynamite or gelignite - whatever they called it - arrived from Perth. That was to be stored in a large exploration shaft that had been put horizontally through the side of Mt Whaleback. The Japanese companies had insisted that the shaft be put through Mt Whaleback to ensure that Mt Whaleback was full of iron ore.

Mr Carr: That it was not salted.

Mr COURT: Yes; that they did not salt the shaft. They had put drill holes through Mt Whaleback, and the Japanese made them put in a tunnel, which was about eight feet high and was a typical mine shaft. I was the junior labourer in the operation. At that time there were only about 40 people working at Mt Newman. I was responsible for the fuel truck. During the day after this semitrailer had arrived, we were given the job of unloading the dynamite from the semitrailer and putting it into the shaft. By lunchtime I had developed a rotten headache. I could hardly keep working. By the end of the day I realised why I had been given the job, because working with dynamite has an awful effect on people when they are working in a confined space. In fact, we were given Disprin, and the like, and I guess these days the occupational health and safety laws would provide that one cannot do that sort of work in a confined space unless certain controls are put in place.

That experience provided me with a good example of the dangers of handling these types of goods. That reminds me of a joke that members on this side have already heard because it was told at a seminar we attended this week. An advertisement was placed in the classified section of an American newspaper for a driver for a dynamite truck, and it said "Must be prepared to travel unexpectedly". Having worked with that material, I could tell a lot of stories about accidents in relation to the use of explosives in the mining industry, but I will not do so now.

Many dangerous goods are being transported around this State in pipelines, trucks, ships and railcars. This is a very controversial issue, and will continue to be a controversial issue as this State grows industrially. It is crucial that we have the necessary regulations and controls in place so that we can maintain the highest possible safety standards.

The Leader of the National Party made a good point when he said that we got out of Houston just in time because there was a major explosion there. That development looked pretty haphazard in some places. When planning future industrial developments here it is crucial to put proper safety planning in place, and certainly proper emergency provisions and guidelines for when a dispute occurs. At this very moment there is a lot of concern about the emergency procedures in the Kwinana industrial area, and a number of people have made representations to me. We have read a lot in the newspapers about the concern of people in that area. At the time the petrochemical project was being planned for Kwinana, people were making sure it would be of a design which would meet the highest possible safety standards.

One thing we learnt when we visited industrial estates overseas was that it is important for the public to be given more information about these dangerous goods. Instead of keeping the information in house and secret in an industry, it is important that people are better educated so that when an emergency arises they do not find themselves in a completely foreign area. In these large industrial centres we saw that the emergency plans involved all the industries in the area having combined exercises so that they were all capable of helping each other. In other words, if one chemical plant has an accident and it needs assistance from other plants in the area, they know how to provide that assistance; they know how to cooperate, whether it be with fire engines, breathing apparatus, or whatever might be necessary to fight that emergency. We were most impressed with some of the schemes put in place and the cooperation among the various industries.

There is a tendency for industries to be very insular; to put their own emergency procedures in place and not to inform other industries nearby. In Kwinana there is now more cooperation between the different companies. It is important that not only the companies but also the Government services involved are all capable of helping each other in the event of a problem. We must be realistic; of course there will be problems from time to time. We have to undertake a risk analysis when we are talking about these industrial centres. It is important that they are able to handle any problems which may arise.

I mentioned the question of pipelines. We are also talking about the licensing of premises used to store dangerous goods to make sure that they are strengthened and safety features are built into them at the design stage of new plants and buildings. That is critical.

Let us take the petrochemical plant, because that is a very good example. I shall leave the financial side of that proposal, but to make the type of plastics which were proposed for this plant, a number of different technologies could be used, a number of different plant designs

could be introduced, and different companies around the world hold the patents and licences for these different processes. As the design was being worked up on that proposal, a lot of input came from different people, but the Government itself did not have a lot of knowledge in this area. The EPA officials we were talking to were on a pretty rapid learning curve. We cannot expect them to be experts on everything, but it is important that where they do not have the expertise they should bring in an independent consultant who can assure them that the final design of the plant will be the safest possible design for that industry. That is one of the sections of this industry which requires some involvement at the design stage to ensure that the safety features are in place.

Another question in relation to emergency situations is where the Minister can give such directions as are necessary to minimise danger to persons, property or the environment. I presume this is because in some of these cases a very quick response is needed. It might be a serious accident at a chemical plant. Perhaps the Minister can explain why there is a need to ensure that the Minister has the power to provide those directions.

The question of protection from liability for persons who in good faith render assistance in an accident involving explosives or dangerous goods is a pretty important area. Throughout the country areas in particular we have many volunteers, such as members of the SES, who are now being called upon to handle accidents, many of which involve a considerable degree of sophistication. Last year I expressed some concern about the lack of equipment provided for some of these rural emergency bodies because they were now faced with not merely agricultural chemicals, but also dangerous goods involved in the mining industry being transported through the agricultural areas. We have the current case where goods are being transported from Esperance; they are coming from Perth and from Geraldton, they are going into the Murchison, and the same thing is happening at Port Hedland and in other areas. I would like to see the Government make a more generous commitment to the emergency services. I know it has made a commitment to assist with new fire engines and the like in some of these areas, but many of these bodies have emergency trailers, and these trailers contain equipment such as suits for fighting chemical spills. We need to provide more equipment to these bodies. It is really a cheap way for the Government to ensure a good spread of knowledge around the country in order to handle these emergency situations. It is important that the people who risk their lives have the proper protection when working in these emergency situations.

In any modern society using explosives and dangerous goods it is critical to have not only a heap of legislation, but also effective legislation in place to ensure that we are doing the maximum to protect the community. Also we should look ahead so that when we attract new industries we can ensure that they meet the highest possible safety standards. I support the legislation.

**MR COWAN** (Merredin - Leader of the National Party) [11.28 am]: The National Party supports this legislation, as does the Liberal Party, but we have some queries about one or two points. When these amendments were first mooted by the Government some concern was expressed by the agricultural industry that some of the products commonly used in agriculture, such as urea, which were transported around the countryside, may be brought under these controls. I think that fear has been dispelled. Nevertheless I would like the Minister to comment during his response to the second reading debate so that it may be recorded in *Hansard* that in fact there is no requirement upon those people who transport reasonably large quantities of products which are used as explosives in the mining industry, generally when mixed with other products. For example, urea is mixed with diesel; nevertheless, urea is very much a cheap source of nitrogen for the agricultural community. I would like some assurance from the Minister that transport of that product, which is perfectly harmless on its own, will not be the subject of any regulations or conditions which may be applied as a result of the amendments to this Act.

It would be repetitive for me to outline some of the other areas where we have concerns about this legislation because they have been raised by the member for Nedlands. It is very clear to us that if the Crown Law Department's advice is correct - and we can only assume that it is - this amendment Bill had to be brought into being. If the flammable liquids regulations 1967 - which the Government has been using in the past to regulate the use of pipelines for the transport of flammable, toxic or explosive products - are ultra vires, then clearly it is our responsibility to do something about it. Similarly, it is appropriate that,



because of the common use of explosives these days, the Government should change the law so that the requirement that permission for explosions be granted by the Governor in Executive Council becomes one where the Minister gives permission. I assume that the Minister will delegate that responsibility to the Chief Inspector of Explosives and Dangerous Goods, and I would like him to comment on that as well.

We welcome also the additional controls which are to be imposed upon the design, layout and construction of manufacturing and processing plants which have a record of abuse of toxic or explosive chemicals. That is essential. It does not matter how hard we try, we will always have problems with lives being endangered because of spills of hazardous chemicals and things of that nature, no matter how elaborate the safety system. However, basic standards must be set, as must overall planning which makes known to people outside the plant what happens inside and what measures need to take place or what precautions should be exercised. When the various Government agencies or bodies that are required to provide a service - such as the police, the Fire Brigade and the ambulance service - go into those plants they too should know, because of the regulations and rules which have been laid down, precisely what procedure to carry out and what the hazards are likely to be.

Finally, on the question of penalties, it is appropriate that they be raised in keeping with the general lifting of penalties right across the board in areas where people must comply with regulations. It is pretty hard to say this, because it is a reflection on human nature, but some form of incentive must be given for people to comply with the law or with regulations.

As you can see from my comments, Mr Deputy Speaker, the National Party supports this legislation. We want some clarification in relation to the carriage of products which could be deemed to be explosive goods but which in fact are, by themselves, quite harmless and freely transported at the moment. I refer specifically to urea, but other products are also used to provide a nitrogen boost for agriculture - ammonium nitrate is one which was mentioned. We would like some assurance that a wholesale change will not be made whereby we might see farm vehicles required to be licensed under the Explosives and Dangerous Goods Act.

**MR CARR** (Geraldton - Minister for Mines) [11.35 am]: I thank members for their support of the legislation and their contributions to the debate. Their comments were very positive and I would concur with almost everything that has been said.

The member for Nedlands referred to the likelihood of significant developments and significant changes in the nature of industrial development in Western Australia in the next couple of decades. That simply is a statement of fact and this legislation is an attempt to be up to speed with the sort of development that is likely to occur and the changed circumstances that are likely to be thrust upon us. Some comments were made in the Parliament earlier today about the appropriateness of regulation in varying circumstances; however, there appears to be no argument that this is a subject area where a significant degree of regulation is most appropriate.

The member for Nedlands also referred to the need for coordination in our emergency preparedness and in the planning for it. Again, I would simply endorse those remarks. There is no scope for us not to be prepared for emergencies that can eventuate. With particular reference to the Kwinana strip area, we have in place a coordinated emergency response under the name of KIEMS. If I recall correctly, that stands for Kwinana Integrated Emergency Management System, or something to that effect.

**Mr Court:** If you don't know, we have real problems.

**Mr CARR:** It is not directly under my control, actually; it is under the control of the Minister for Emergency Services, although the Department of Mines does have a link into it by virtue of the fact that it is a coordinated system with all of the relevant agencies providing people to participate in it. I would also agree with the comment that it is desirable to have the public as well informed as is reasonable and possible concerning dangers that exist and the responses that are appropriate to them.

A question was asked about the ministerial power to issue directions in response to an emergency situation. That is really meant to be a last-resort, gather-all provision in case something that could not be predicted emerges and a particular action is required. In fact, very detailed regulations and powers exist to issue directions in advance to provide for virtually anything that can be predicted. However, we recognise that, with technology

changing very quickly and with an area where something completely unpredictable could happen, it is appropriate to have a power to act very quickly. While the advice upon which any such decision is made would obviously be advice from the technical expert in the field, because of its catch-all nature, it is considered that there be a ministerial requirement to be involved in issuing any such direction. A similar power exists already with regard to explosives but the point is now made that some of the substances with which we are dealing, while certainly dangerous goods, do not qualify for the term "explosives".

The member for Nedlands also referred to the value of the emergency services organisations that we have in this State. Special mention must be made of the volunteers in both the fire brigades around the State and the State Emergency Service units. No doubt a very valuable service is provided at a very limited cost to the Government. The Government would have to spend an enormous amount of money to involve full time Government employees in every conceivable emergency service. Reliance on volunteers is essential and saves the Government a considerable amount of money. I agree in principle with the member's suggestion that the Government should allocate more resources to that area but unfortunately there is not enough spare money or time to do that.

The Leader of the National Party referred to the transport of agricultural commodities, particularly urea. I am not aware of any proposal which would create any problems in the transport of urea. Ammonium nitrate is used for fertiliser, and people have asked, as has the member for Nedlands, why there is a problem with the transport of ammonium nitrate. The discussion which has taken place recently concerning the import of ammonium nitrate through Esperance has included the suggestion that this product also has explosive qualities. Ammonium nitrate has been passing through a number of wharfs for a considerable time. However, the product that is proposed to be imported via Esperance is different from the product which has been imported elsewhere for explosive and agricultural purposes. I do not have any technical knowledge in this field and I accept the advice I have received. Nothing has been proposed which is likely to change the circumstances regarding the importation of ammonium nitrate. I thank members for their support on this Bill.

Question put and passed.

Bill read a second time.

#### *Committee*

The Chairman of Committees (Dr Alexander) in the Chair; Mr Carr (Minister for Mines) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 7 amended -

Mr COURT: This clause outlines the specific definition of a pipeline. Would this definition cover the design of piping in a petrochemical plant? Most petrochemical plants and refineries consist simply of piping which takes goods here and there. Is this the proposed section under which the design of such piping would be checked? At present are any pipelines carrying dangerous goods causing concern to the Government?

Mr CARR: It is my understanding that this is not the proposed section relating to such pipelines. Pipelines built in particular factories or premises are covered by regulations; approval is required to construct a factory in the first place. This clause relates to pipelines which carry an item from one premise to another premise. The pipelines legislation relating to transport of flammable goods from one property to another does not necessarily cover items which need to be moved by pipe; for example, the unloading of vessels in the area of Cockburn Sound. Concern was expressed that liquid ammonia was being unloaded in that area and that there was a need for regulations to cover the situation in which a commodity, other than a petrol product, was being transported by pipeline from one place to another place. Other regulations cover the transport of a product within a particular premise. I would be happy to have the information I have conveyed verified by departmental officers.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Section 14 amended -

Mr CARR: I move -

Page 3, lines 11 to 13 - To delete paragraph (b) and substitute the following paragraph -

(b) in subsection (2) -

(i) by deleting "Governor" and substituting the following -

"Minister", and

(ii) by deleting "in council".

This amendment has been suggested by Parliamentary Counsel and relates to the method by which appointments are made. It takes away the need for the Governor in Executive Council to be involved in these appointments and gives the Minister the authority to make appointments; this is similar to that which prevails in most other legislation.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 7 put and passed.

New clause 8 -

Mr CARR: I move -

Page 5 - To insert after clause 7 the following new clause to stand as clause 8 -

Section 43 amended

8. Section 43 of the principal Act is amended by repealing subsections (2) and (3).

Parliamentary Counsel has advised that the subclauses are unnecessary.

Mr COWAN: The subsections to be deleted currently provide that any person who fails to comply with the regulations relating to the storage of dangerous goods commits an offence. Can the Minister explain how any person can be deemed to have committed an offence in that way and therefore be liable for prosecution if the amendment is passed?

Mr CARR: A change has occurred in the method of implementation and involves subsequent amendments. Regulations will be put in place to provide for that situation. Instead of saying that the regulation is that a person must comply, the provision will be that a person must not take certain actions unless that person has a licence to proceed. It is a reversal of procedure.

New clause put and passed.

Clause 8: Section 45 repealed and sections substituted -

Mr COURT: This clause deals with buildings in which dangerous goods are stored. I am aware of the proposed amendment but, as the Leader of the National Party mentioned, the rural community needs assurances that in the normal operations involving the use and storage of dangerous goods people should not be encumbered by unnecessary controls and regulations. In many instances it is acceptable for dangerous goods to be stored in farm sheds. If farmers must comply with regulations involving the design and construction of farm sheds it could result in a considerable increase in costs; by most judgments that would be unnecessary. The typical modern farm shed has many uses; it may store fertilisers, chemicals, and other goods required daily by a farming operation. The clause needs clarification. How would it affect farms and small businesses?

Mr CARR: That type of detail would be covered in the regulations, on which considerable work has already been done. Indeed, those draft regulations have been widely distributed within the community. A number of responses have been received from the farming community and sections of the small business community, including retailers who are required to store certain items. Following consultation, amendments have been made to the draft regulations and assurances given in relation to the intent of the regulations. My understanding is that all parties are satisfied with the regulations in the form proposed.

The proposed regulations provide significant scope for the chief inspector to issue exemptions. He has stated in written form that he does not intend to use those exemption

provisions in a markedly different way. Both the chief inspector and I have corresponded with the Farmers Federation reinforcing that assurance. Judging from the correspondence I have received, it appears the rural community is satisfied with the assurances given.

**Mr COURT:** What is the current situation with the explosive dumps at Woodman Point and Byford? What will happen to those old dumps? Are the explosives at the defence installations at Stirling, Pearce, Learmonth and Derby under Commonwealth control or does the State have a say in the design of storage facilities?

**Mr CARR:** I should not guess the answer to those queries in relation to the defence installations. I shall make some inquiries. My understanding is that at least the Woodman Point dump contains explosives. I will check on that matter.

I move -

Page 5, lines 5 to 21 - To delete proposed subsection (1) and substitute the following subsection -

(1) A person shall not -

- (a) lay out for a building or commence or proceed with a building for the purposes of the storage of dangerous goods;
- (b) in respect of a structure of a building already erected, amend, alter, extend or enlarge, or commence or proceed with the amendment, alteration, extension or enlargement of the structure of any building used or proposed to be used for the purposes of the storage of dangerous goods; or
- (c) use, or permit the use of, any premises for the purposes of the storage of dangerous goods,

in excess of the limits prescribed by the regulations in relation to the class of dangerous goods in question unless he or she has made an application to and obtained a licence for that purpose from the Chief Inspector in accordance with the regulations.

Amendment put and passed.

**Mr CARR:** I move -

Page 6, lines 9 to 27 - To delete proposed section 45C and substitute the following -

**Chief Inspector may give directions**

45C. (1) The Chief Inspector may from time to time give directions with respect to any premises on which dangerous goods are stored or proposed to be stored for the purposes of ensuring public safety and for the safety of any occupants in or on those premises.

(2) Without derogating from the generality of subsection (1) directions given under that subsection may include -

- (a) the preparation and implementation of a hazards control plan;
- (b) the implementation of such measures as are specified by the Chief Inspector for the purposes of ensuring that the hazards control plan referred to in paragraph (a) is tested from time to time as specified by the Chief Inspector;
- (c) the training to be given to persons occupying or employed on the premises; and
- (d) such other matters as in the opinion of the Chief Inspector are conducive to safety.

**Mr COURT:** It is important that we realise that this amendment gives very wide powers to the chief inspector. He can control the operations of a business by using the powers to control planning and training. Proposed subsection (2)(d) states that directions can be given on "such other matters as in the opinion of the Chief Inspector are conducive to safety" - that is a very broad brush. I accept that the chief inspector operating in this area would require

most of those powers, but it is crucial that the powers are used in a responsible manner and for the genuine purpose of improving safety. They should not be used, for example, for industrial purposes. I am being hypothetical here, but one must be when considering legislation: If a chief inspector had it in for a particular business, he could cripple that business financially with those powers. The Opposition expressed concern during debate on the occupational health, safety and welfare legislation that some people in the community may use some aspects of that legislation, not to improve occupational health, safety and welfare but for industrial purposes. I shudder to think about what would happen if we ever had a chief inspector who was mischievous in the use of these powers. This is something we should all be aware of when we grant these very wide-ranging powers. Who knows what may happen? At the moment we are witnessing many cases of obstructions to project developments in the name of the environmental and conservation movements, but what could they do with the misuse of these powers? In this case we are considering matters of safety and the allocation to the chief inspector of incredibly wide powers. The Liberal Party supports the amendment, but if the slightest example of misuse of these powers occurs, they would have to be reconsidered by the Parliament. The powers can be used, but hopefully they will never be abused.

Mr COWAN: The Minister referred to the case of the importation of ammonium nitrate to Esperance which was not approved. He said that the products used for fertiliser, such as ammonium nitrate, was not of the same quality as the chemicals referred to in this legislation. Therefore, is it the case that products used for fertilisers are not likely to be defined as dangerous and explosive goods? If so, will the farming community not be required to obtain a licence to construct a building for the purposes of the storage of fertiliser? I would like that to be made clear because some doubt still exists on the issue. I understand that the chief inspector has been granted the right to exempt certain people under certain circumstances from the need to comply with the amendments to the Act. I would like it placed on the record whether the farming community will be exempt, either because of the nature of that industry or because the products used will not be defined as dangerous or explosive.

Mr OMODEI: Is it intended to have some redress for those people who may have some impositions placed on them by the chief inspector, and is it intended to compile a list of the chemicals to which the legislation applies, as was outlined by the Leader of the National Party? If the list is compiled, the users in the State will be aware of the brands and the names of the chemicals involved. Ammonium nitrate has been mentioned, and this is used extensively in the agricultural and horticultural industries throughout the State.

Mr CARR: I begin by responding to the Leader of the National Party and repeat that I am not aware of any suggestion that items presently imported for fertiliser purposes will be the subject of any change in assessment. My understanding is that the urea and ammonium nitrate which are imported for fertiliser purposes will not be affected - I am not aware of any proposal that a different assessment will be made.

Regarding the question of the storage of chemicals, I referred earlier to representations made to me by the Western Australian Farmers Federation (Inc), the Country Shire Councils Association and others regarding exemptions currently available under the existing legislation to the farming community for the storage of farm products. I have received assurances which have been conveyed to the WA Farmers Federation that the same exemptions which are exercised at the moment will continue to be exercised. Therefore, no change should take place at all in relation to the requirements of farmers at the present time.

I appreciate the comments of the member for Nedlands regarding the seriousness of the legislation. Let there be no doubt, we are inserting considerable powers into the legislation for the officer to make regulations. One paragraph refers to directions on "such other matters as in the opinion of the chief inspector are conducive to safety". I do not apologise for this strong measure - we are dealing with potentially very dangerous situations and we are dealing with situations in which it is not always possible to predict what new technology will produce. However, I have every confidence in the chief inspector. There needs to be a catch-all provision. However, I readily acknowledge that power should not be used capriciously by the chief inspector. I am sure that any Minister would look carefully at the exercise of that power. I appreciate the caution sought by the member, but I believe that on balance it is an appropriate inclusion.

Mr COURT: The Leader of the National Party asked for some significant assurances for the rural community, and previously I asked some questions on which the Minister intended to seek clarification. Would it be possible to have the third reading on another day so that the Minister can provide the answers to those questions? We may want to follow that through and propose amendments before it goes into the other place. As members will appreciate, the rural industry has a vital interest in that area and if we could get those answers before the third reading we could take the appropriate action.

The CHAIRMAN: As we are in the Committee stage the third reading could not proceed without suspending a Standing Order, so the third reading would have to be made an Order of the Day for the next sitting.

Mr CARR: I will be happy to have departmental officers examine the full transcript of the debate.

Mr Court: I thought you would do it yourself.

Mr CARR: I am following what is happening in the debate, but possibly some technical areas may be overlooked. I will not be in the Parliament for the next week or so, and that will provide time for a clear response to be checked out.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 9 to 14 put and passed.**

**Clause 15: Sections 61A and 61B inserted -**

Mr COURT: We have privately expressed concerns on the matter of proof of prior conviction. We had some concerns that before a person was convicted his previous record would be made known to the magistrate. However, that was a misunderstanding on our part. I would appreciate it if the Minister would explain how affidavit evidence would operate under this legislation, and the Government's reasons for handling prosecutions in this way?

Mr CARR: The method of operation is fairly clearly spelled out in this legislation. The reason is that officers are frequently required to attend at court to provide very simple evidence on matters which have not been contested and which could easily have been dealt with by affidavit. A lot of the officer's time is being taken up sitting in a court. A full hearing in court is clearly available to any defendant, but where no dispute exists it is considered reasonable that the production of an affidavit to the court would satisfy the legal requirements.

**Clause put and passed.**

**Clauses 16 to 18 put and passed.**

**Title put and passed.**

**Bill reported, with amendments.**

## HERITAGE OF WESTERN AUSTRALIA BILL

### *Second Reading*

Debate resumed from 21 August.

MR P.J. SMITH (Bunbury) [12.16 pm]: It would be remiss of me if I did not rise to support the Bill. As Chairman of the Bunbury Joint Heritage group I have wide contact with groups that see the legislation as important and are keen to see it go through. This Bill has the support of heritage groups, architectural groups, historical groups and conservationists. Basically, those groups have one aim in common, which is the preservation of our past, our history, our successes and even our failures. We need to include our failures so that we can learn from them for the future. This legislation results from wide consultation with these groups and to some degree I agree with the Opposition that some doubt still exists in the minds of some people. However, it would be a very unusual situation if any Government introduced a Bill of this magnitude and complexity and satisfied everyone. This is our best chance for some action to go forward and help preserve our heritage.

The Bill is concerned with all heritage. We have a problem with people who use words like

ugly or eyesore to classify buildings that need to be preserved. They must recognise that heritage is not just about the grand and beautiful public buildings which have had public money put into them so we can be proud of them, or the private buildings which have had skilled architects and builders employed to build something of which we can all be proud. It is also about preserving the buildings of ordinary people such as workers' houses, huts, cottages and even holiday cottages. It is about wheat bins, timber mills, farms, stables and out buildings - yes, even about toilets. It is not only concerned with the special projects in the past which were built in times of affluence such as the gold rushes. I will comment on some of Bunbury's many grand buildings, which were from the time of John Forrest when money was available.

That encouraged other developments and other people put their money into Bunbury in very much the same way as the Government of today is. In 1898 a hospital, a court house and a post office, all very grand, were built. They were of great pride to Bunbury and to the people who wanted to conserve them.

Mr Clarko: Those buildings are often much better looking than the buildings of today.

Mr P.J. SMITH: Yes, but they are all gone now, unfortunately. I would prefer to see their grandness and their architecture preserved. We are recording our social and architectural history and it all needs to be preserved if possible. However, we realise we cannot preserve all of it. What is under the ground is also important. Artifacts are buried on many archaeological sites and these sites should be preserved.

The trend of looking at buildings and trying to preserve them began in the late 1960s and early 1970s with the Barracks Arch controversy. With the construction of the freeway, the last colonial barracks in the world were to be demolished. The people of Western Australia, however, wanted some of the buildings retained and so we have the Barrack Arch. Some people still say the whole lot should have come down because it looks out of place, but I do not agree.

Mr Blaikie: I think it was a mistake that the wings came off in the first place.

Mr P.J. SMITH: Yes, but that is now in the past; it has happened and we can debate what could or could not have happened forever but it will not change the situation.

Mr Blaikie: It is still desirable that something was kept.

Mr P.J. SMITH: I thought that was good also.

Industrial architecture is just as important as houses. Industry is for the workers and their buildings are as important as those of the rich and Government buildings.

Mr Blaikie: You have taken a very strong stand on the Bunbury silos and I compliment you on that.

Mr P.J. SMITH: I will come to that. I was talking about Bunbury and preserving its buildings. The Government has a good record in Bunbury. A couple of good buildings built at the turn of the century in Victoria Street have been preserved. They are now used for community use and have been preserved with Lotteries Commission money. One of the buildings, at 101 Victoria Street, was originally built in 1898 for the WA Bank. We are presently trying to preserve a bond store and customs house which we hope might be used for museum services.

Bunbury used to have a grand railway roundhouse and goods sheds which were removed to make way for the foreshore development. We fought long and hard to have them retained in Bunbury. I am pleased that part of the roundhouse and goods sheds are now on show at the top transport and agricultural museum at Boyanup. It is interesting that the roundhouse was one of only three left in Australia. The second is in Collie and part of the Bunbury roundhouse is now preserved at Boyanup.

The silos in Bunbury are very important. They are particularly old for concrete silos, having been built in 1937. While many other Government buildings were built in times of affluence, the silos were built at the end of the Depression when there was a need for work in the area. They were built by a Labor Government and they were the first concrete silos in Western Australia. They were designed to make the Bunbury port a very important port and from that time, and even before that, Bunbury was a major port for the wheatbelt. We still

try to retain that association even though the railways have been closed and the silos are now used mainly for storage.

The main reason for preserving them, other than the fact that they were the first official concrete silos on a port, is that they were built in 20 days. They are 100 feet high and have seven sets of cells. It would be difficult today to build them in 20 days. A strike occurred while they were being built. That is not a bad effort for the workers of that day who were mainly drawn from the ranks of the unemployed. They were built by the slip mould technique, only the second building in Western Australia to be built that way. Much of this information was provided by year 11 history students at the Bunbury High School who entered a Statewide competition in the Heritage Week schools research project. They did a lot of research and interviews and picked up on the conflict in the Bunbury community about whether the silos should be conserved for their heritage value or demolished because many people think old buildings are an eyesore. I congratulate the year 11 students of Bunbury Senior High School on their efforts.

It is strange that the Bunbury election campaign in 1989 was fought over the retention of those silos. The Liberal Party based almost all of its campaign in Bunbury on whether they should be demolished. The Labor Party wanted them retained, possibly as an environment museum.

Mr Clarko: The way you are talking is interesting; that is, you said that the Labor Government has built things and the Liberal Party did that. I thought heritage was a subject about which we could minimise politics.

Mr P.J. SMITH: I think so, too. However, it is strange that the 1989 campaign revolved around the pulling down of historical buildings in Bunbury. I suppose the same things applies to the Swan Brewery at the moment.

Mr Clarko: It is a pity we could not have an election on that basis; you would be out.

Mr P.J. SMITH: That might be so. I do not think the Government will base its policies for the next election on the retention or demolition of the Swan Brewery.

The Swan Brewery site is a very important heritage site. There is no doubt in my mind that it is a significant site for Aborigines. In fact, it is probably the second most important site in the metropolitan area next to the Perth Railway Station. No doubt there will be fun one day when attempts are made to pull that down. Apart from that, the Swan Brewery site is also significant to the people of Western Australia. It is an industrial building and an excellent example of the type of building constructed at the turn of the century.

Mr Clarko: It is ugly in the extreme. The best thing about it are the original drawings.

Mr P.J. SMITH: That is what I am talking about. I do not think heritage is a matter of ugliness or whether a building is an eyesore; it is a matter of historical and architectural importance. Apart from being an industrial building, the brewery provided a lot of work and heartache over the years. It relied to a large degree on water transport and it is one of the few buildings we have left on the waterfront.

Mr Clarko: It is the only one in that section; that is why it should go.

Mr P.J. SMITH: If it is the only one in the section, that is why it should stay.

Mr Clarko: It is the only one from Crawley Bay to Union Square. There is not another building. It is the reverse of a missing front tooth.

Mr P.J. SMITH: That is as good a reason for keeping it as for pulling it down. I suppose the member is trying to suggest that we should take everything from the waterfront.

Mr Clarko: It would be the last to go.

Mr P.J. SMITH: That is why we should preserve it. It is an excellent site that could be redeveloped. The problem I have is that the building appears to be on a significant Aboriginal site, which is a conflict that I am sure the Government will work out as the matter proceeds.

Mr Clarko: I forecast it will not be upgraded as proposed. Eventually, we will come to power and it will be razed to the ground.

Mr P.J. SMITH: That brings me to another problem. I do not see the brewery as a clash of



cultures as some people do. I return to the time of Mr Goldberg selling it to the Government so that it could be redeveloped and used for the people of Western Australia. The major objections at that time came from doctors and people who said that the brewery was a traffic hazard. They said it was an eyesore and that it spoilt their view as they travelled into the city and that even if those issues were not valid, a traffic hazard existed and the building should be pulled down and the road straightened. Soon after that the issue changed from straightening the road to developing the site as part of Kings Park. These arguments have merit.

Mr Blaikie: The issue arose because the Government was concerned with helping Yosse Goldberg who, quite frankly, was crooked.

Mr P.J. SMITH: The member for Vasse is making accusations that he should substantiate outside the House or he should explain to the Parliament what was crooked about Government dealings with Yosse Goldberg.

Mr Blaikie: The Government was caught and then had to turn around and get itself out of a mess.

Mr P.J. SMITH: I am not sure that anybody was caught. I believe that the building should be developed for the people of Western Australia. It is an excellent building which should be retained as an example of the harmony between two cultures.

Mr Clarko: I stated on the first day the Government declared its intention for the site, as shadow Minister for planning, that the building should be demolished and turned into a grass parkland. The Opposition has held that view since then.

Mr P.J. SMITH: The member for Marnion may have made that statement, but strong argument has been voiced to straighten the road. What is the use of demolishing the building when the existing road meanders around an open space?

Mr Clarko: It should not be there; no buildings are adjacent to it.

Mr P.J. SMITH: I suspect the Opposition has a hidden agenda, after the building has been demolished, to fill in the river and widen the road because of the tremendous pressure to do that.

Mr Clarko: I was not the one who advocated that policy. There is no hidden agenda; the area should be used as parkland.

Mr P.J. SMITH: Those issues have nothing to do with me. Why do people want to pull down the building and straighten the road for no other reason than -

Several members interjected.

Mrs Beggs: Lots of other buildings are ugly.

Mr Clarko: It is not a heritage building for a start.

Mrs Beggs: Many people would totally disagree with you.

Mr Clarko: The majority of people hold the view of the Opposition. Every poll that has been undertaken about the issue shows that the majority of the community is in favour of the building being pulled down. Certain unions are also in favour of its being demolished. That is why the Government cannot make a decision about the issue.

Mrs Beggs: Several unions are in favour of it being restored.

Mr P.J. SMITH: Many buildings exist which people believe are ugly and are eyesores, but that has nothing to do with their heritage value. This site is a Western Australian heritage site, not just an Aboriginal site. There are many good reasons for preserving it. My argument about that will be minimal, but I hope that eventually the Government will develop that site for the people of Western Australia in a manner that will show the harmony between two cultures.

Mr Clarko: Additions were made in 1934 which made the building even uglier.

Mr P.J. SMITH: I am concerned that, if the building were demolished and the site did not hold a permanent structure, the people of Nedlands would persuade the Government to have the river filled in and the road widened. The issues relate to heritage.

A wide range of methods exist to assist in preserving sites, from encouragement to fines. Those methods are not without problems. When people are encouraged to preserve buildings they react negatively and when they are fined too much they react also. That aspect has been highlighted by the Opposition.

Local councils and shires also have a part to play in this issue. Not only Governments, but also local authorities should provide encouragement to preserve properties. Where an open policy exists of encouraging people to preserve and redevelop sites while maintaining their original character, an influx of people will indicate their desire to develop and preserve those older styles of buildings. Subiaco, Fremantle and Claremont are three very good examples of that. Another example is the Stirling Street precinct in Bunbury which is residential. Local people are trying to have that classified as a restoration area.

The property will become more desirable and its value will increase if it is developed appropriately. The claims that properties are protected from alteration by heritage legislation are made, I believe, by real estate agents who prefer to be able to sell new places.

Mr Clarko: That is unfair to real estate agents.

Mr P.J. SMITH: I know fear exists among some people that if a heritage classification exists on a house its value will drop. However, I have found that when the council encourages heritage classification of properties, their value increases. This Bill provides for consultation between parties and it provides for incentives and penalties for those who wantonly destroy a property. On behalf of the dozens of groups who have been waiting for years, if not decades, for this legislation to be passed, I support the legislation.

MR MCGINTY (Fremantle) [12.35 pm]: If an example were needed of why this legislation is essential, we need only to compare the cities of Perth and Fremantle. Fremantle is an example of many years of conscientious effort to preserve its heritage. It is unfortunate that that example has not been followed by other areas in this State. This legislation will provide the opportunity to extend the benefits of preserving our heritage to other parts of Western Australia. Today, Fremantle is much admired as a vibrant "built" environment and adds greatly to the general amenity of the entire State, particularly the metropolitan area. It will be further advanced during 1991 when Fremantle Gaol is decommissioned and added to the State's list of heritage buildings as a useful public community facility. For some time, the Fremantle City Council has considered placing the City of Fremantle under World Heritage listing. The preserved environment in Fremantle deserves its citizens' support in placing it under World Heritage listing as a unique example in Australia of a "built" environment worth preserving.

Mr Clarko: Are you advocating putting Fremantle on the World Heritage list?

Mr MCGINTY: The member should talk to the members of the Fremantle City Council and seek their views.

Mr Clarko interjected.

Mr MCGINTY: It has been done so well that it is popularly regarded as unique within Australia and, therefore, is worth placing on the World Heritage listing. Heritage classifications should be extended beyond the City of Fremantle and this legislation is a step towards achieving that.

Mr Clarko: World Heritage listing for Fremantle is nonsense.

Mr MCGINTY: We will see about that. I want to deal with a point raised by the member for Applecross concerning the various mechanisms for preserving Western Australia's heritage and when compensation under this legislation ought to arise. The member for Applecross stated that ownership of property provides rights and that those rights must be protected at all costs. He said that this Bill does not protect those rights. He was saying, if I may say so without disrespect, in a superficial way that people have a right to use their land in whatever manner they wish. I disagree with that. First of all, that denies the fact that individuals have a responsibility to society. It is saying that the State must assume responsibility for compensating people for every incident which has a detrimental effect or otherwise on their properties. Secondly, I suggest that the State should not, under any circumstances, compensate citizens for what I would regard as environmental vandalism. People should not be compensated for destroying our heritage.

Mr Lewis: It is their property.

Mr McGINTY: That does not give a person the right to destroy the heritage value. It does not give the owner of a property the right to destroy the heritage value when it is a building which is enjoyed by the community as a whole.

Mr Lewis: We have never said a property should be destroyed. We have said we support heritage legislation and the conservation of buildings of importance. However, if a person owns a property and he is detrimentally affected and his property rights are removed, he should be compensated for that.

Mr McGINTY: Under this legislation the only way in which someone's enjoyment and use of that land can be detracted from is if the heritage values were to be destroyed. What the member for Applecross is compensating for is someone destroying the heritage value of the property. This Parliament should not condone compensation being paid to an environmental vandal.

Mr Lewis: We are not talking about environmental vandals.

Mr McGINTY: Yes, we are and they are the people the Opposition wants to compensate. Under this legislation there is no question about people's use or enjoyment of property being affected detrimentally other than to the extent they wish to use the land inconsistently with its heritage value. In other words, it is a destruction of its heritage value which gives rise to the payment of compensation under the Opposition's proposal. Those people should not be compensated. We do not have the right as private property owners to pollute our land or to make as much noise as we want on our land and interfere with the amenity of others who live in the surrounding area. We do not have the right to use our land in the way we want to. One of the prices we pay for living in a society is to subject ourselves to certain constraints. One of those constraints, outside Fremantle, which has not been recognised to the extent it should have been is the preservation of our heritage as part of a duty of citizens to enhance the quality of life for the people in this State.

Mr Lewis: You forget that you are discriminating against a few people who may own a place of heritage. Other people may have a right to pursue the best use of their land and that is okay. People who happen to own a place of significance are discriminated against because they are restricted in the way they can use that property.

Mr McGINTY: They are not restricted other than to the extent to which that restriction prevents them from destroying the property's heritage value. There is no inhibition on people's use of land.

Mr Lewis: Why don't you legislate for the State to own all the land so that there can be no private ownership?

Mrs Beggs: You are being ridiculous.

Mr McGINTY: In my short period in this Parliament one of the things I regret is the lack of application of members' intellect to the questions before them. One of the things to which I am committed as a new member in this place - I have spoken to the newest member, the member for Cottesloe, about this - is that there is a lack of intellectual rigour in the way in which matters are debated in this Parliament. Too often interjections and comments which are thrown across the House are boofheaded in their nature and we should be addressing the issues before the House. I want to address the issue of compensation arising out of this legislation rather than those things which are not even cutting and are not even funny - interjections by members opposite. Lets debate the issue rather than throw red herrings across the path.

Mr Shave: If I bought a property in Fremantle for \$200 000 and I take a mortgage on it and the National Trust puts a classification on the building and it has a zoning which entitles me to develop it in accordance with certain requirements, the heritage people may put a classification on it saying that I cannot do anything to it, therefore in practical terms the property could decrease in value to \$80 000. Effectively, I have lost \$120 000. Do you think there should be some provision in the legislation that if Governments want to go ahead and put these sorts of classifications on private properties where people may be substantially disadvantaged, they should not get compensation?

Several members interjected.

Mr McGINTY: If there is a choice between a property being conserved or the payment of compensation, we should be looking at preserving the property - that is in a clear-cut case. To answer the member's specific question, I do not believe that in those circumstances compensation should be paid as of right because there is provision under this Bill for a person who believes he has been adversely affected to apply to have his property resumed. That is the point at which he will be paid compensation and he would not, of necessity, be \$120 000 out of pocket. His property can be preserved by the process of resumption under this legislation. The fundamental issue is to preserve that property, not to expend public dollars to compensate people who would otherwise want to take away its heritage value.

Mr Shave: A responsible Government has an obligation to consider heritage and I have no problem with that. It has an equal obligation to consider the welfare of the person who may have lost his life savings.

Mr McGINTY: I agree and that is the reason the legislation makes provision for that person to have the property resumed rather than to go through the process of trying to estimate its value and the extent to which it has been detrimentally affected by a conservation order, rather than by market forces and that would be relevant in today's real estate market.

Mr Shave: Under those circumstances are you saying that this legislation will allow for a person in that position, when that heritage classification is put on the building, to automatically apply to the Government to have the property resumed and he will receive compensation?

Mr McGINTY: Not at the point of being on the heritage list, but further down the track the person could make application to have his property resumed to protect his economic interest. In that way there is some recognition of the rights of individuals where there is a clear-cut case of economic loss and, at the same time, the building is preserved which is the overriding consideration. The case outlined by the member for Melville would be an absolutely exceptional one; that is, a building in Fremantle being worth \$200 000 and then having its value reduced to \$80 000 because it could not be developed. The likely scenario is that the building would double in value. As people begin to appreciate the importance of preserving our heritage, having a heritage tag on a property will increase its value rather than detract from it.

Mr Shave: I accept that is the case in Fremantle, but it is not in other localities.

Mr McGINTY: It comes back to the question I posed at the outset: Whether the State should assume the responsibility for everything that makes up our society or whether responsibility lies with individuals. One of the things I see flowing from the passage of this legislation is an increasing public awareness of the importance of heritage. Outside Fremantle there will be a growth of people's awareness and desire to be part of preserving our past. I am sure that will have an enormously positive impact on property values throughout the State - a phenomenon which is substantially confined to Fremantle now, but which will extend further. This legislation will play an important role in achieving that end. It is important that we look at what the Bill provides as giving rise to what the member for Applecross referred to as injurious affection or some way in which the value of a property may be affected by the processes under this Bill.

A heritage agreement is the first way in which an impact might be had on the value of a property. It might be argued that some compensation ought to arise from that. The first point to be made is that a heritage agreement is a voluntary one entered into by a landowner and the relevant authority, say the Government. When someone voluntarily enters into an agreement I fail to see how questions of compensation can arise. The Act goes further and provides for certain financial inducements or rewards to be given to the person who enters into an agreement voluntarily in order to preserve a building. I cannot see how any question of compensation can arise out of a voluntary agreement where the owner of land is in receipt of certain financial benefits in any event. There is no bar on development placed on that landowner by entering into a voluntary heritage agreement.

Mr Blaikie: I do not think the member is right.

Mr McGINTY: I am right. I have read the Bill. I know about this area and there is no right, nor should there be, to compensation for a person entering into a heritage agreement voluntarily. I am talking here about the first step, which involves voluntary heritage

agreement. There ought to be no compensation and there is no logical argument to suggest that there ought to be. I will come to the point raised by the member for Vasse later.

The second point on which the question could conceivably arise relates to where a property is placed on the register. We have already had this discussion with the member for Melville, so this question has already been touched on to a certain degree. The most likely impact of a property, particularly a residential property, being placed on the heritage register is that its value will increase enormously. It will be a great selling point for real estate agents. It is something people take pride in and the community as a whole will regard it as a real plus for the property. The most likely end result in 90 per cent of cases will be that the heritage listing will increase the value of the property. In those 90 per cent of cases no question of compensating the person ought to arise.

The other alternative, and I think this occurs in a minority of cases, is that placing a property on the heritage register could reduce its value. This was the hypothetical case raised by the member for Melville. I believe the question there is one of public appreciation and education. This Bill has an important role to play in increasing community consciousness, awareness and acceptance of responsibility for preserving our past. I will come back to that point.

Mr Lewis: No-one disagrees with that.

Mr McGINTY: The third area in which compensation might arise is where a conservation order is raised. This is the matter on which the member for Vasse interjected earlier. Two conservation orders can be made under this Bill: The first is a consent order. How can compensation arise when something is done by consent? Compensation is generally payable when something is done against someone's wishes; so we can put that to one side.

Mr Lewis: I never said that.

Mr McGINTY: I never suggested that the member for Applecross did. I am going through every eventuality where compensation could arise. In the case of a consent order no question of compensation arises, in my view. When a stop work order is involved an argument starts to arise, but it is one I would not support. A stop work order lasts for 42 days. In my view the price to be paid for delay is not something which ought to be compensated for in itself. The Bill provides for compensation for actual expenditure wasted as a result of a stop work order. That is what ought to be compensated for - the extent to which someone is actually out of pocket as a result of expenditure made in good faith which is wasted because of a stop work order. I believe there is neither need nor right for compensation to arise other than in that circumstance.

Mr Lewis: What about compensation for loss on the cost of money, because there is a thing involved called interest?

Mr McGINTY: The question of the 42 days in the balancing process when looking at the necessity for preserving our heritage is a small price to pay. I do not believe that every price ever paid by a member of society ought to be compensated for by the Government. Quite simply, if a 42 day stop work order exists there should be no compensation, although I am happy to acknowledge that some loss might be incurred by the person in those circumstances. However, not every loss should be compensated for because a bigger and better good is at stake.

Mr Lewis: Who benefits from a property put on the heritage list?

Mr McGINTY: Society as a whole.

Mr Lewis: Does the member for Fremantle therefore think that an individual should bear that cost for the benefit of society as a whole?

Mr McGINTY: I think that we, as responsible members of society, all have a responsibility to contribute to its betterment. That includes property owners, farmers and trade union members, everyone of whom makes a contribution to society at one stage or another. We are seeing that at the moment in the great - to my mind too great - restraint being exercised by the wage and salary earners of this country for the overall betterment of the society in which we live. As a result of that, they are out of pocket. They are finding it hard to make ends meet, but they are doing that for the betterment of society as a whole through the trade union movement in this country. Should we compensate them? It is a question of what limits one

goes to when posing the question of compensation. Not every loss or detriment incurred by a member of society ought to be compensated.

The fourth area under which the question of compensation can arise relates to the situation where a building is resumed for public purposes. The Act is quite unequivocal here; the person whose property is resumed - where that person loses the full enjoyment and benefit of that land - is compensated under the normal processes of the law.

Mr Lewis: I say a person has the right to apply for his property to be resumed. There is nothing in the Act which gives the individual that right. The only person who can decide on this is the Minister on recommendation from the Conservation Council. An individual has no right to request that his or her property be required or resumed, so the member for Fremantle has misled the Parliament with that statement.

Mr McGINTY: I have not misled the Parliament. Before the debate concludes I will point out to the member exactly where the provision exists for an individual to make that application.

In the fourth area of resumption for public purposes it is appropriate compensation is paid where an owner of a building or land loses total use and enjoyment of it. I find it somewhat ironic that, on this question of compensation, an amendment proposed to the Australian Constitution in 1988 which would have made it mandatory for States to provide compensation on just terms whenever property, in its broadest sense and not just land and buildings, was acquired was opposed by members opposite. We all remember that that constitutional amendment, which would have made compensation compulsory, was opposed by the people opposite who argued that the Constitution should not be amended to make it a requirement on the States.

We all know that the Commonwealth Constitution apportions compensation on just terms for acquisition of property. It is a requirement under that Constitution and that is reflected in every Commonwealth law involving acquisition of property or proprietary interests. I find it odd that people will go out and campaign saying that this obligation should not be placed on the States and, having succeeded in convincing the population to vote no, stand here and say that compensation is a right whenever property rights are interfered with. There is inconsistency in that approach.

Mr Lewis: Of course there is a right.

Mr McGINTY: It is a right under Commonwealth law, not under State law, because members opposite persuaded the people of Western Australia to vote no when compensation on just terms was proposed as a constitutional amendment in 1989.

*Sitting suspended from 1.00 to 2.00 pm*

**[Questions without notice taken.]**

*Point of Order*

Mr McGINTY: Before the lunch suspension it was suggested by the member for Applecross that I had misled the House. I regard that as a most serious allegation and one on which I seek your guidance, Mr Speaker. The matter arose out of a statement on my part that the Bill before the Parliament provided for an individual who considered himself or herself to be adversely affected by the operation of the Bill to apply to have his or her property resumed, and in that way to be fully compensated according to the provisions of the law. Now, the member for Applecross said that the Bill made no such provision and accused me of misleading the Parliament. Clause 72 of the Bill is headed "Request for compulsory acquisition in lieu of compensation", and this makes provision for the procedures which I outlined. I am new in this place, and I am not familiar with the procedures; however, I am concerned that a suggestion has been made which reflects adversely on me, and that this should not be allowed to go unchecked. I seek your guidance, Mr Speaker, on what should be done. In my submission I was right and the member for Applecross was wrong, and I did not mislead the House.

The SPEAKER: I will try to handle this matter in a couple of ways: If we were out of this place, the rules would be different. In this place it is my task to ensure that members can say whatever they wish to say, but it is my job to check the veracity of what is said. In the period that I have been here a substantial number of statements have been made - probably one a

day - the veracity of which I would seriously question. Having said that, it is very difficult for me to say that members cannot say those things. What I do say is that we should not say those things. Members have a responsibility, and although they have a parliamentary right to make statements without fear of retribution, they have an added responsibility to ensure that those statements are correct and to ensure that politicians are considered properly by the general public. Members are as aware as I am that politicians are not considered very highly in the public arena at the moment largely because of the sorts of improper statements that are made in this place. The House will be debating a motion on the Standing Orders in the next few days and a Standing Orders Committee report has been tabled. I suggest that serious consideration of at least part of that may go a long way towards resolving the problem that the member is experiencing. I appreciate his desire to have me take action against that remark, but at the moment my hands are tied.

#### *Debate Resumed*

Mr Graham: Withdraw the remark; you were wrong.

Mr Lewis: No, I will not withdraw my remarks and I was not wrong.

The SPEAKER: Order!

Mr Graham: You said he was misleading the House and he was not.

The SPEAKER: Order!

Mr McGINTY: I will point out to the member for Applecross why he was so demonstrably wrong. I said that a person who was aggrieved by the processes under the Act and whose interests were detrimentally affected had a right to apply to have the property resumed and would be paid compensation. The member for Applecross said that, in making that comment, I was misleading the House. I refer the member to clause 72 of the Bill which states -

Where a person is dissatisfied with any compensation offered by the Treasurer under section 71 the person may, within the time and in the manner prescribed, make a claim for compensation in respect of the estate or interest affected under the *Public Works Act 1902* . . .

Clearly that person has the right to make a claim to be compensated under the provisions of the Public Works Act for the resumption of the land. The provisions of clause 71 give rise to that. Subclause (2) relates to the conservation order which is very much of the sort that the member for Melville described quite aptly in his description in his question before the luncheon suspension. It referred to a conservation order decreasing the value of the property in question. Clause 71(2) states -

Where the making of a Conservation Order has as a consequence the revocation, modification, or suspension of, or a delay in the implementation of, a permission or authorization granted under any relevant Act and a person interested in the land to which the order relates has reasonably incurred expenditure in carrying out work rendered abortive and thereby sustained loss directly attributable to the revocation, modification, suspension or delay, being a loss . . .

The subclause then describes the sorts of losses which can be incurred including losses from the drawing up of plans, the costs and circumstances of the acquisition of the land, and any breach of contract involved in the proposed renovations to the property in question. Only if an offer of compensation is then considered inadequate by that person - it is only in those cases where people incur a loss - will these clauses necessarily operate and in those circumstances an individual can apply to have the property resumed and be paid compensation under the provisions of clause 72 of the Bill. That clearly demonstrates that the member for Applecross was wrong in suggesting that the House had been misled. There is a right for an individual to do that.

Finally, I refer to an analogy not with the law of real property but with the law of personal property. Two hundred and fourteen years ago there was a war in the United States of America over very much the same question that we are debating today. It was over whether people who possessed property rights in certain chattels, namely their slaves, should be compensated for the loss of those property rights. They were personal property rights because the slaves were the property of the slave owners. That debate was resolved by the

American Civil War and no compensation was paid to the owners of those property rights. I submit that we are debating a direct parallel today. Why should we pay compensation for the removal of the so-called right to destroy our heritage? There is no such right and no such compensation should be paid.

**MR BLAIKIE (Vasse) [2.35 pm]:** The Heritage of Western Australia Bill is an important step for this State. It is important that both Houses of this Parliament understand the sensitivity of people who own property to which this legislation will apply. Previous attempts by former Governments to enact legislation of this nature have failed miserably because insufficient regard was paid to the owners of property. My comments will be directed in that general direction.

Heritage legislation is important for this State. It is important that the State recognise and identify historic and important buildings and to have legislation and funds to protect those buildings. I am disturbed that Perth would take the booby prize for being one of the worst capital cities as far as its heritage is concerned. I criticise successive Perth City Councils and the failure of State Governments to enact appropriate legislation. The decision by a former Government to demolish the barracks made many people realise that we were not sufficiently aware of the importance of our heritage. Likewise, a recent decision by this Government to allow the Palace Hotel to become the facade of a new building in St George's Terrace was a bad heritage decision.

One of the shining lights of this city is His Majesty's Theatre. Many theatre buffs say that His Majesty's is too small. However, they agree it is intimate theatre and is an important piece of our heritage. Not only do the many people who go there enjoy the theatre, but also they enjoy the fact that such an important building has been preserved, hopefully for all time.

**Mrs Beggs:** That is an example of the preservation of our culture in both senses.

**Mr BLAIKIE:** Yes, it has achieved both aims. One of the few bonuses that came to this State from the America's Cup was the work that was done to preserve Fremantle. I have referred to what Perth has lost and to the vandalism of some of our important historical buildings. I compare that with the city of Adelaide which has a planning authority in which the Parliament is involved.

**Mr Pearce:** You people opposed my suggestion that that should happen here. The vitriol I received when I suggested that we should have a body like that and not a city council controlling Perth was incredible. I was subjected to all sorts of abuse by your colleagues.

**Mr BLAIKIE:** What did the Minister do about it?

**Mr Pearce:** I did not do it, I was intimidated.

**Mr BLAIKIE:** That is indicative of the amount of conviction the Leader of the House had at the time.

**Mr Pearce:** I was going to raise that issue but received no support from your side.

**Mr BLAIKIE:** There is stark comparison between the Cities of Adelaide and Perth. In some ways, the planning of Adelaide leaves Perth for dead. In the planning of Perth, despite its magnificent river, consideration was given to building freeways and overpasses while the public have been denied access to the river. A classic example of the differences between the sensitivity given to the planning of Perth and to the planning of Adelaide is the casinos. The Burswood Casino is a gross monstrosity. I did not support the siting of the Burswood Casino. The Adelaide casino was designed to fit into the community; it is inconspicuous, its planning is a credit to the designers and to the City of Adelaide, and it is a delight to visit. It is accessible while not being obtrusive; but, more importantly, the people of South Australia have been able to preserve the heritage of the railway station and its precinct by adding another dimension to it. The designing of the Adelaide casino is an important object lesson which the people of Perth should have learned, but they continue to make mistakes.

**Dr Alexander:** The Perth City Council supported the casino's being built in the centre of the city.

**Mr BLAIKIE:** That is where it should have been built. I am not certain that this legislation will be the be-all and end-all for the preservation of the State's heritage properties. I doubt, also, that it will reverse previous decisions because an avaricious Government will by-pass



the legislation if it wishes. My concerns are not about the content of the legislation, but about how it will be implemented and whether authorities will acknowledge the legislation. Had it been in place three or four years ago I have little doubt that the Burswood Casino would have been built on its present site. The Bond building would have been erected regardless of the legislation because of the Government's will. Were a Government not committed to preserving buildings, this legislation would be scant protection for the buildings. Be that as it may, legislation is before us and I hope it might be of some benefit to the people of Western Australia.

It is also important to note that Dr Avril O'Brien is featured in an article in today's *The West Australian*. I have very high regard for Dr O'Brien and the work she has done in recording Western Australia's history and matters of heritage. During the bicentennial year, Dr O'Brien headed the heritage committee which performed outstanding work for all Western Australians. The recordings of the committee will be the blueprint for generations to follow. I was recently in the Broome area and no matter where one travels in the State, heritage trails and heritage walks exist. Whether in the south west, east, north, the Kalgoorlie region or the Sandstone area, throughout the State, Dr O'Brien and her committee performed significant and outstanding work for Western Australia. Her comments in today's newspaper should be heeded, not only because of her competence but also because of her practical, on-the-ground experience. During the Committee stage I will be asking questions relating to Dr O'Brien's comments and about how the legislation will measure up to some of the constructive criticisms she made.

Finally, I refer to my electorate and the significant features of the area and acknowledge the significance of the Vasse electorate in the State's early development. One example is Wonnerup House, which is a National Trust property and on which much work has been done by the National Trust body as well as the National Trust committee. Ellensbrook, which has not yet been opened to the public, is another trust property. I am the president of the Ellensbrook restoration committee. I pay tribute to the Department of Conservation and Land Management, which has spent some \$250 000 to \$300 000 on building a road and walkways to Meekadaryby, on the waterfall and on the caves area surrounding Ellensbrook House. Ellensbrook is located in the centre of the Leeuwin-Naturaliste National Park; it was also the first home of the Bussell family. Much work has been done to restore the house and the grounds to their former condition in preparation for their opening to the public later this year. In the same location, under private ownership, is Walcliffe House. That belonged to Grace Bussell who was involved with Sam Isaacs, a survivor of the wreck of the *Georgette*. My electorate contains a wealth of history and historic buildings. Lockville, in the town of Busselton, is a privately owned property which the owners have been painstakingly restoring using their own finances. There is also the Lockville property on the banks of the Wonnerup estuary at the entrance to Busselton. The same people own Prospect Villa, a historic property built in 1850 in the centre of the town, which has been restored significantly. Also in Busselton is St Mary's Church, built in the late 1830s, the first stone church built in Western Australia; and Fairlawn and Cattle Chosen are at Inlet Park.

Mrs Beggs: My mum and dad have great heritage value in your shire.

Mr BLAIKIE: That is right, and very important people they are too. This legislation will have importance throughout the State and will have added significance -

Mr D.L. Smith: While you have congratulated those other people you have been remiss in not congratulating yourself.

Mr BLAIKIE: That might be more appropriate in 50 years' time. I had a part to play in the retention of the old Government courthouse and police station buildings. These buildings form part of the Busselton and south west heritage. Until 1975 they were still in use. The cells still had the chains on the walls where prisoners were manacled. I am not sure whether that was still being done to prisoners in 1975, but it had certainly been done in previous years. The walls were whitewashed limestone. The fact that people were incarcerated in those cells in 1975 was an indictment on the community. When people go to the old courthouse today, which has been retained and restored and is used by a number of people from the art world to great advantage, they are amazed at the courthouse and the cells but cannot believe they were used only a few years ago. They imagined it was a nice old building which probably ceased being used at the end of the century. No doubt the Minister

for South-West would have fond memories, as a lawyer, of trying to stop people being incarcerated there in early days.

There was a move by the Government to hand over the courthouse building to the police department. That "bright move!" was to convert it to use by the Road Traffic Authority, the other arm of the police department. I attracted the wrath of the local shire because not only did I oppose the move but also encouraged the community to oppose it. My view was that if it were handed over to the police department it would ultimately become a dumping ground for wrecked vehicles when the building and its precincts should have been held for posterity.

Notwithstanding the wrath of the local shire, it was eventually retained. One of the other ways in which I was able to act was in having a staying order invoked so that it was not handed over to the police department. I made a strong claim to the Premier of the day that part of the building should be kept as an office for the member for Vasse. The Premier could not understand why I wanted that old building for an office. I wanted it held so that the police department did not get its hands on the building. I did not want the building for my purposes, but wanted it retained for posterity. Therefore, the end result was quite successful.

Mr D.L. Smith: It is not just an important heritage centre but also an important cultural centre.

Mr BLAIKIE: In addition there were quarters for two policemen in the same location, but not attached to the main building. It was proposed they be demolished. The Government of the day reluctantly agreed not to allow those police quarters to be demolished. They have since been restored and refurbished and have become an important part of the area.

As the Minister for South-West would be aware, on the other side of the area is a building presently used by the Department of Agriculture. That building formerly housed the Agricultural Bank in the early 1930s. Again, my view is that this legislation should be looking at future use of that building so that if and when the Department of Agriculture needs to move out or expand that building will be retained; firstly, because of the significance of its involvement in the heritage of the district and, secondly, to use it for alternative purposes. It is on the same block as the Weld Theatre, which dates back to the 1860s. That theatre was named in honour of Governor Weld, a former Governor of Western Australia. It is probably one of the most used mini theatres in the south west. It is an intimate theatre. Therefore, one can see that we are looking at a heritage park area there.

This legislation is important and its success will depend on how it is implemented; it has some shortcomings, but I hope it will be successful.

I will comment on two other areas. They relate to the towns of Cowaramup and Witchcliffe. Both these towns were created during the group settlement era. When one looks at the development of Western Australia one realises that both of these towns are important, as are their old buildings. At Cowaramup we have Saint Mary's Church, which is recognised as an historic building. I can remember returning from England in 1980 having been invited there by the British Government to do a study tour of the country to look at energy conservation and environment. That was quite significant because in 1980 the word "environment" had not been acted upon. We were taken to see a number of areas and were shown how the English recognised their heritage. We saw what they were doing to preserve that heritage while continuing to grow. I recall coming back and saying to a friend in Cowaramup that I thought there was great potential for the town to preserve the buildings in their existing condition and to maintain them because as the years passed the town would take on greater importance. When I said that in 1980 people thought I had fallen from a great height onto the top of my head. Of course, 10 years down the track the attitude of people has changed and a realisation now exists that things old and significant are of great importance and value.

The town of Witchcliffe, which is another group settlement town, depicts the establishment of the region in the 1920s. The timber framed buildings are now 70 years old. How often do we go to other parts of Australia or the world to find that one of the highlights that people want us to see is a settlement area of the 1910 or 1920 era which has been recreated? We have got that here and must ensure we do not lose it. We must not frighten people with property by the use of this legislation but must encourage them to develop it. We must provide funding so that they can develop, protect and preserve that property for their benefit, our benefit and the benefit of the State as a whole. This is historic legislation and I wish the Minister every success with it.

MRS BEGGS (Whitford - Minister for Transport) [2.59 pm]: I thank all members who contributed to the debate on this important legislation. I accept it has been a long time in its production and has taken some time to get before the Parliament in a form with which most interested groups agree. There is no doubt that legislation of this nature will not meet with the approval of every individual or group.

The Government's position is quite clear; it considers this is a fair piece of legislation which has been well considered under the circumstances. It provides a balance between the wishes of the wider community to conserve places of heritage for future enjoyment and the needs of the community in years to come. The Bill has a balance between the carrot and the stick approach. Surely that must be applauded by those in the development area. The Bill makes provision for a wide range of incentives. There has been a lot of talk during the second reading debate about property rights. I do not intend to canvass all those opinions, but I am sure those issues will be raised during the Committee stage of the Bill.

There has been wide consultation, which started when I was the Minister for Planning. We have accepted many of the proposals for change, but not all, because we are concerned that the legislation should remain workable and effective. We could have brought in any piece of legislation which adhered to some of the more outrageous concerns which have been expressed by some people in the development industry, but the legislation would not have done all the things which the member for Vasse was discussing in his contribution to the debate. It is very important that the legislation have teeth; it is very important it is not diminished in any way, because the result would be an ineffective piece of legislation which would not achieve the preservation of our heritage places.

It is true to say that the Opposition has sought to misrepresent our proposals by suggesting that entry in the register of heritage places would stifle development. This is because there is a requirement to enter a memorial on the title. I think the member for Applecross referred to it as a "monument". In fact the memorial is merely to ensure that future owners are made aware of the significance of the place.

Mr Lewis: I used the word "monument".

Mrs BEGGS: The important part about this legislation, as the member for Fremantle said, is that it does not seek to sterilise places of heritage value. In fact it facilitates sympathetic development by locking into the development planning process, and also by providing the necessary incentives, especially the planning bonuses which are explained in the legislation.

When I introduced this piece of legislation as Minister for Planning I stated that a hallmark of a community's maturity is its sense of history and its commitment to protecting its cultural heritage. The debate on this piece of legislation has indicated wide support for legislation of this kind. That is very pleasing to me as it will be to most members of the Western Australian community. As the member for Vasse said, in the last few years there has been wide recognition of the need to preserve our history and enhance our cultural base. Australia is a very young country in comparison to most, and those of us who have been lucky enough to visit other countries around the world have been amazed at the sense of history which pervades the streets of some of those older cities. I hope that this legislation will give us an opportunity to preserve our heritage for future generations in a sensitive and fair way. I do not suggest for a minute that people's rights should be taken away from them, but in protecting the rights of individuals, sometimes the rights of the wider community are ignored.

I look forward to the Committee debate. I hope that the amendments put forward can be explained fairly so that the effectiveness of this piece of legislation will not be diminished.

Question put and passed.

Bill read a second time.

#### *Committee*

The Deputy Chairman of Committees (Mr Ripper) in the Chair; Mrs Beggs (Minister for Transport) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Crown bound, and the objects of this Act -

Mr LEWIS: I move -

Page 6, line 15 - To insert after the word "Act" the following -

, with due regard to the rights of property ownership,

I accept that the objects of the Bill are to identify, conserve, preserve and enhance our heritage. It should be recognised, and probably it is fundamental to our principles in the Opposition, that the rights of people who own property should be emphasised. As expressed by the member for Fremantle, the attitude would seem to be that if something is for the benefit of the State and for the enjoyment of people in that State, it is too bad if individuals are discriminated against because they happen to be fortunate or unfortunate enough to own property which is deemed to be unique as far as heritage is concerned. My amendment is designed to emphasise that while accepting the need and the importance of heritage - and we are in support of this legislation - it should not be forgotten that people in Western Australia have property rights, and those property rights should not be ignored or forgotten, notwithstanding the importance of the legislation before the Parliament.

Mrs BEGGS: I do not accept the amendment. This clause provides that the Crown is bound by this Bill, and it outlines the basic objects of the Bill. The reason I reject the amendment is that the whole of this legislation pays due regard to the rights of the property owner. Property interests are already provided for in subclause (3)(b).

Mr LEWIS: The Minister has not explained why the legislation cannot include a simple statement to the effect that recognition is given to property ownership and that other rights ensue.

Mr WIESE: I support the amendment. The point made by the amendment is one of great importance to the whole legislation and should be considered carefully. At the second reading stage I expressed concerns about the wide ranging scope of the Bill; the amendment addresses those concerns. The Minister has referred to subclause (3)(b), and that was a good example; not that the subclause addresses the problem but because it highlights the problem. One object of the Act is to facilitate development that is in harmony with the cultural heritage values of any area. That has no reference at all to the rights of property owners; that is the crux of the matter. By facilitating controls over development proposals we risk overriding the rights of property ownership.

Mrs BEGGS: I reject the suggestion that the legislation in any way overrides the rights of property ownership. The amendment is not necessary and I reject it.

Mr CLARKO: Everyone accepts that it is highly desirable for Western Australia to have heritage legislation; everyone agrees that our cultural heritage should be retained and enhanced, but if we fail to give due regard to the rights of property ownership we are not being fair to the people who own properties described as heritage properties. That point is quintessential to my argument. If the Minister refuses to change her attitude she will endanger the legislation to a marked degree in areas which she would rather not do so.

Mrs BEGGS: I do not wish to put the legislation at risk.

Mr Clarko: Much of it is very good.

Mrs BEGGS: All of it is very good.

Mr Clarko: That is a mistake.

Mrs BEGGS: I do not think so. As we consider each clause, members will realise that during the preparation of the legislation the Government has bent over backwards to ensure that the rights of property owners are protected. Consultative and appeal mechanisms have been put in place during the normal planning process. If this is written into the Bill that will suit the objectives of the Opposition because that was the basis upon which the member for Applecross made his remarks. He said that while the Opposition supported the heritage legislation he found it necessary to pick it to pieces and, to use his words, considered it to be a piece of legislation that absolutely denied the rights of property ownership. His claim is false.

If I accept the amendment, I accept also the remarks made at the second reading stage; that is, that the legislation ignores the rights of property owners. I reject that completely.

Mr CLARKO: The words contained in the amendment have been carefully framed. To pay due regard to the rights of property ownership does not attempt to cut across the need to retain our heritage. The phrase "with due regard" is a most conservative and cautious term; it has been used in British law for centuries. The clear meaning of those words is that we should give people fair treatment. We do not ask for more.

The member for Fremantle made some remarks this morning. My colleague interjected, making the point that a person may buy property for \$200 000 and after rezoning may have the opportunity to put up a service station. Subsequently that person may receive a heritage restriction label on the property and the value of the property may be reduced to \$80 000. The argument used was that the person would be able to have the property resumed; the rights of resumption in Western Australia adds 10 per cent to the value of a property so the valuation would then approach \$88 000. That represents a drop in value of \$110 000. Why should a person be disadvantaged in that circumstance? If the community wants the benefit of heritage legislation - and broadly speaking the people of Western Australia do - an owner should not be financially disadvantaged.

I find it incredible that the Minister rejects the phrase "with due regard to the rights of property ownership". People with property are not given a bonus when that property becomes heritage property. One could not be more circumspect than to insert those words. Anyone who refuses to accept the amendment will never see any sense in the debate to follow.

Mr LEWIS: The Minister has not given a good reason for the rejection of the amendment. Does the Government have a hidden agenda? Is the Government's philosophy as expressed by the member for Fremantle? If a person has a property of heritage significance, is it too bad if a financial loss is suffered for the benefit of the community? This amendment is fundamental to the Bill. As the member for Marnion stated, the amendment asks that the people who administer the legislation shall have due regard for the rights of people who own property. If we ignore the fundamental principle that with ownership goes rights, or if the legislation overrides those rights - and to some degree I believe it does - we will lose a fundamental principle contained in Statutes for as long as this State has existed. Those property rights should not be struck out with the decision of a board or a council.

Mrs Beggs: The legislation does not do that; you know that! You are misrepresenting the legislation.

Mr LEWIS: The legislation does do that! It disturbs me that the Government has not seen, or does not want to see, that this legislation encumbers and sequesters property rights. It removes certain rights from owners of property to do certain things as seen fit by the council. The amendment to show "with due regard" does not do anything; it is just saying to the administrators of this legislation, "Please have regard for people's property rights." If that is detrimental, I would like to know what is wrong with the wording.

Mr SHAVE: I was interested in the comments made by the member for Fremantle because, like the member for Applecross, I am concerned about two aspects of this legislation: Firstly, I am concerned about the issue of heritage - like everyone else; secondly, I am concerned about the rights of property owners. With regard to the comments by the member for Applecross, it is important to remember that when one passes a Bill to appoint a group of people to make decisions regarding heritage and placing classifications on property, this property does not belong to that group. In that case it is easy to be flippant and to order that the property should not be destroyed. These people could state, "What rights do the owners have? It is our heritage." It is easy to talk about somebody else's financial involvement in a property. I am greatly concerned that the majority of people involved in making classification decisions will be very concerned about the heritage aspects - that is the reason for them being there and I do not begrudge them promoting the heritage of Western Australia - but the people who may be disadvantaged as a result of this legislation must be protected.

I will refer later to a further clause regarding compensation to which the member for Fremantle referred. Having read the clause and having thought about it, I would like a couple of issues cleared up. I cannot see why the Minister can have any objection to the amendment. It will only make people aware that they are not just to consider whether a building should be classified or whether it should be preserved for the future, but they should

also consider the fact that the ultimate decision may dramatically affect the financial future of individuals in this State. This slight amendment will not cause any damage to the Bill.

**Mr AINSWORTH:** I have the strongest support for heritage legislation because it will do what has not been done in the past; that is, it will preserve our heritage. However, I have great concern, as have many other members on this side of this House, for the individuals who are caught up in heritage legislation. If a person happens to be the owner or the occupier of a property which is decreed to be of heritage value and which should be preserved for the rest of society, the Minister must be quite genuine - I have no doubt that she is - in saying that this Bill takes due consideration of the rights of that individual. Therefore, I cannot see why she cannot agree to add these few words in the amendment. The words are broad in their definition and certainly do not impinge on the direction of the legislation; that is, to preserve property of heritage value. If the individual property owner's rights are covered in the legislation in some other way, surely it is not acting against that which is already a part of the legislation by adding the few words - it will not change the direction of the legislation. The legislation must preserve property with heritage value but it must also preserve the rights of property ownership. That is the difficulty. If it does not preserve ownership rights, the whole legislation is a sham and I will find it very hard to support it. The amendment asks for "due regard" and this is not some special benefit given to someone who happens to own property decreed to be of heritage value; these are the same rights of every property owner no matter how valuable or how valueless the property is in a heritage sense. So, the insertion of a few words would assure the people of this State that if they are fortunate enough to own property of heritage value, they will not be disadvantaged by such ownership.

**Mrs BEGGS:** I am not known for being pedantic. The reason that I have rejected inserting the words of the amendment is because by inserting those words I would somehow or other be saying that the legislation does not give due regard to these rights. As I can see us being here all afternoon, and because I do not want to jeopardise this legislation, and as the amendment is fairly innocuous - and at the same time I want to emphasise that the whole legislation does give regard to the rights of property ownership as all provisions in the Bill point to the processes by which a property owner can protect his rights - and in view of my determination to pass this legislation as quickly as possible, I accept the amendment.

**Mr WIESE:** I am very glad to hear the Minister agree to accept the amendment. It is very important that it becomes part of the objects of this legislation to ensure that property rights are preserved. I was disturbed to hear some of the comments made by the member for Fremantle, and I would like the Minister to indicate whether she believes that the heritage value which the community places on property should override the rights of the individual - I believe that that was the thrust of what was said this morning. Does she support that thrust or does she support the rights of the property owner? These rights should be taken into account in every decision regarding the exercise of this piece of legislation.

**Mrs BEGGS:** This legislation strikes a balance. No-one's rights will be overridden at all. It is a fair and balanced Bill and people's rights are protected in the normal way through the planning process.

**Mr CLARKO:** I commend the Minister on agreeing to this change. I hope that this will be an indication of her general approach to the legislation. The Minister would appreciate that the legislation has been difficult to frame. It has taken since 1987 -

**Mrs Beggs:** It has taken three Ministers.

**Mr CLARKO:** That is right. It has taken an inordinate amount of time to come to pass - in the 16 and a half years that I have been a member of this place few Bills have required three years' gestation. That is an important first step for her to take. I hope she will agree to other amendments. It is important that the heritage legislation is seen to have the broad support of the Government and the Opposition. We believe this amendment is vital to the debate. If the Minister had been intransigent about the amendment, we would have been entitled to feel that the legislation does not give due regard to the rights of property owners.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 5 put and passed.**

**Clause 6: Ministerial powers and Ministerial delegation -**

Mr LEWIS: This clause gives great responsibility to the Minister in what is considered to be a unique piece of legislation. It enables the Minister, with the approval of the Governor, to make orders that change other legislation including the Town Planning and Development Act, the Local Government Act and other Acts. That order has to be passed by both Houses of Parliament. However, responsibility is placed on the Minister to report to Parliament. Bearing in mind what has happened before, particularly in relation to Ministers of the Crown - I do not want to be critical -

Mrs Beggs: Why are you then? You do not have a conciliatory bone in your body. You are nasty.

Mr LEWIS: I am trying to emphasise that previous Ministers of the Crown in the current Labor Government have not reported fully and their powers to direct bodies have not been reported fully by some Ministers.

Mrs Beggs: Which Ministers?

Mr LEWIS: The SGIC, the R & I Bank, the Superannuation Board.

Mrs Beggs: Which Ministers?

The ACTING CHAIRMAN (Mr Ripper): Order! We are in danger of drifting away from the clause. I ask members on both sides to concentrate on the subject matter.

Mr LEWIS: The Burt report indicated that Ministers had failed to report their directions to various Government agencies. I am trying to compliment the Government for including in the legislation a provision enabling the Minister to direct the council and for that direction to be included in the annual report.

**Clause put and passed.**

**Clauses 7 to 13 put and passed.**

**Clause 14: Resources of the Council -**

Mr CLARKO: Has the Minister any broad estimate of the amount that the department will need allocated to it in the early years of the operation of this legislation?

Mrs BEGGS: I cannot give an indication of the precise amount, I am sorry.

Mr Clarko: I do not want a precise amount.

Mrs BEGGS: I do not have any idea because this is not my Bill. I am sure the Minister for Planning in another place will respond to the question because she will make some provision in the department's budget for this matter.

Mr Clarko: The legislation would not be effective if the Government put up unfunded legislation.

Mrs BEGGS: There is no intention by the Government to do that. However, I do not have with me an indication of how much will be appropriated.

I move -

Page 16, lines 13 to 16 - To delete the following -

Council.

(2) Subject to the maintenance of adequate records showing the sources from and purposes for which moneys are received and the manner in which moneys are used,

with a view to substituting other words.

Mr LEWIS: I am puzzled by the amendment. The intention of the clause is to maintain adequate records showing the purposes for which moneys are received. The deletion will not do that. Notwithstanding that, it would not be the case under the Financial Administration and Audit Act. I do not understand why the amendment has been moved and the Committee deserves an explanation.

Mrs BEGGS: It has been suggested by Parliamentary Counsel that the clause be deleted on the basis that this is already covered in clause 13 which refers to the provisions of the

Financial Administration and Audit Act. I am advised that it is unnecessary to include it and this is merely a tidying up procedure to correct an anomaly in the Bill.

**Mr CLARKO:** I take on board the Minister's comment that she is acting on the advice of Parliamentary Counsel and that she is lead to believe that this area is covered by the Financial Administration and Audit Act. Since the clause will do no harm in its present form and the situation is not clear cut, perhaps the amendment could be withdrawn and when the Bill is debated in another place the Minister can provide a statement setting out the matter more clearly. The clause could then be deleted at that stage.

**Mrs BEGGS:** I accept that suggestion.

Amendment, by leave, withdrawn.

Clause put and passed.

Clause 15 put and passed.

Clause 16: Treasurer may give guarantees -

**Mr LEWIS:** I move -

Page 19, after line 29 - To insert the following -

(8) All instruments of guarantee given pursuant to subsection (1) shall be scheduled and included in the Annual Report submitted by the accountable authority under Section 66 of the *Financial Administration and Audit Act 1985*.

When I read this legislation I thought it appropriate to include this catch clause bearing in mind the previous situation with regard to guarantees and the Government. I was not familiar with every section in the Financial Administration and Audit Act when I framed this amendment.

**Mrs BEGGS:** I accept that amendment although this is covered in another clause of the Bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 17 put and passed.

Clause 18: Stamp duty, taxes and rates -

**Mr WIESE:** Subclause (2) refers to a tax or rate that shall not be charged or levied. I am not sure whether this refers to a rate charged by a local government authority on land or property, and I ask the Minister to clarify that point. In any event, I ask the Minister what the situation will be with regard to rates and local government charges on properties which are listed. Who will pick up the tab for the loss of revenue to local government if it is not able to levy rates and charges on such property?

**Mr CLARKO:** I strongly support the views of my colleague. The townsite of Cue has some magnificent buildings, especially the former gentlemen's club which is now the local shire office. I hope that many of these buildings will get heritage listing, but if they were Government owned no rates on those properties would be payable to the local authority. If that happened it would be a great disadvantage to the community of Cue to carry such a financial burden.

**Mrs BEGGS:** Registration on any of the heritage lists would not mean this clause would come into effect but the Heritage Council would not be charged land tax or rates unless the land were used for commercial purposes. The Heritage Council cannot own land except for transitional purposes. This clause is a normal provision relating to property owned by the State.

**Mr Wiese:** Who would pick up the loss of rates as a result of property passing from private ownership which is rateable to public ownership which is not?

**Mrs BEGGS:** When the State owns any property no rates are payable and this is just following normal procedure.

Clause put and passed.

Clause 19: Membership of the Council -



Mr LEWIS: The Bill provides for six people to comprise the Heritage Council. I know the Minister has foreshadowed an amendment to increase that number to eight. The Opposition sees the composition of that council as important. There are rules and regulations applying to all walks of life but those who administer them are not always competent or responsible. What ensues from deliberations on the administration of those rules, or in this case legislation, is not always as intended. One should bear in mind the fact that the Heritage Council will have the responsibility for waiving municipal rates or land tax, granting rights relating to plot ratios, or changing town planning schemes and the like. Therefore its composition is important.

The message here is that the people who are selected should have expertise, particularly in heritage matters and matters related to property and that they should also come from a broad spectrum of people involved in property management, local council or local shire, or heritage. Therefore the membership of the council should be extended to include nominees from the various spectrums of property ownership and heritage.

The CHAIRMAN: I am happy for the member to continue his remarks and to foreshadow a proposed amendment but because the wording of this amendment is to delete the clause the way to achieve that is to vote against it.

Mr LEWIS: The Opposition's intention is to enhance membership of the Heritage Council by increasing it to 10 members including an occasional member who will, ex officio, represent the municipality in which a heritage matter is being considered. This proposal is contained in a later amendment. Our proposed membership is; one member shall be a nominee from The National Trust of Australia (WA); one person shall be appointed to represent the interests of local government - in other words, it is obligatory that someone represent local government; and one person shall be appointed to represent the interests of owners, whether from the Building Owners and Managers Association or wherever.

We see it as appropriate that, rather than leaving the matter open ended and allowing for the appointment of anyone the Government or the Minister desires, people from specified areas will be appointed automatically, whether from local government or BOMA. We say a panel should be nominated to the Government from which it would select a person to be appointed as of right to represent an industry or local government group.

Mrs Beggs: Our amendment virtually does that.

Mr LEWIS: It does not do that specifically. It goes some of the way. It does not say that those people shall be selected from a panel nominated by a particular group. We believe it is important there be a balance of people on this council.

Of the membership of six persons mentioned in the Bill only four are required to form a quorum, whereas our suggestion requires six members to form a quorum. We see a deficiency with a quorum of four because if two persons, including the Chairman who has a casting vote, were part of a quorum of four they could take a heritage decision with far reaching consequences. We are talking here of conservation orders where, in effect, the State can take control of a person's property, restrict people from doing things, or make an order for them to do certain things.

A whole bevy of rights is involved in the powers given to the Heritage Council. They are great powers. I think the Minister would recognise that the powers of this council, together with those of the Minister, make this one of the most powerful pieces of legislation available to override other Acts and the like. We are concerned that of the six Heritage Council members two, including the chairman with his casting vote, have the power to do things to people which could be considered improper.

The thrust of our proposed amendment is to broaden the membership of that council to include people from all sections of the community, particularly those involved with heritage, local government and property ownership. We believe that to set up a council of six people from which a quorum of four can make a decision which has great detrimental effect on other individuals in regard to diminution or sequestration of rights related to their property is improper.

Mr CLARKO: I have not had an opportunity to discuss this matter with my colleague, the member for Applecross, and I naturally accept your ruling, Sir, that the amendment will defeat the existing clause. I ask my colleague, the member for Applecross, to listen carefully

to what I have to say. I do not think you would make that ruling, Sir, if I were to put forward a different amendment. I merely foreshadow this amendment at this stage. If I were to delete from line 24 on page 21, the line below "a Chairperson; and", to line 20 on page 22, you would probably accept that amendment. I do not think that would cut across what my colleague is trying to do, and it would give us an opportunity to discuss the amendment and put it in a proper form. If my argument is accepted, I shall move that foreshadowed amendment.

The CHAIRMAN: Such an amendment would be acceptable. What I was saying to the member for Applecross was, despite the fact that that amendment is not formally before the Chair, there is nothing to stop him from discussing the contents of it; indeed he has done that. I am not trying to restrict discussion; I am trying to run the formal part of the debate so that we get the procedure correct. The fact that the amendment is not allowed to be moved at this point but the discussion can still take place is designed to accommodate the fact that we cannot actually take the amendment. If the member for Marmion insists on moving that amendment, we will take it, but I must insist that it is in writing.

Mr CLARKO: I move -

Page 21, line 24 to page 22 line 20 - To delete the lines with a view to substituting the following -

- (b) a nominee of the National Trust of Australia (WA);
  - (c) a person appointed to represent the interests of local government;
  - (d) a person appointed to represent the interests of owners;
  - (e) four other persons having qualifications particularly relevant to, or expertise and experience in, matters within the functions of the Council; and
  - (f) the person holding or acting in the office of the Director of the Museum under the *Museum Act 1969* who shall hold office *ex officio* but may, by notice in writing to the Minister, appoint an officer of the Public Service Act acting pursuant to his directions to hold office for the time being as a member of the Council in his stead.
- (2) If at any time in respect of an office referred to in subsection (1)(f), there is not an office of that name the Governor may by notice in the *Gazette* designate an office as the office to be substituted for the former office referred to therein and specified in that notice and the person holding or acting in the substituted office for the time being shall thereby be a constitutional member.
- (3) A quorum of the Council shall be constituted by six members entitled to vote.
- (4) The Minister shall recommend for appointment under subsection (1)(c) and (d) respectively a person chosen from nominees put forward by -
- (a) local government interests; and
  - (b) a group purporting to represent the interests of owners.
- (5) In recommending appointments under subsection (1)(e) the Minister shall have regard to representations made by relevant local interest groups or persons which may include those referred to in subsection (4).
- (6) Any interest group or person seeking to obtain the recommendation of the Minister in respect of any prospective appointment to the Council shall furnish to the Minister -
- (a) the name or names of any nominees having the support of that group or person;
  - (b) particulars of the area of interest sought to be represented, and of the qualifications, expertise and experience of each prospective member nominated; and
  - (c) a signed consent on the part of each person so nominated.

Mr LEWIS: This amendment has been moved to afford an opportunity for the Opposition to speak about the words which it feels should be inserted. We believe it is important to include on the council a person from the Western Australian Museum, or someone qualified in that area, and that the director of the Museum nominated under the Museum Act 1969 would be an appropriate person; the amendment would enable him to delegate or nominate a person in his stead if he were not able to act. It is important that the quorum be extended from four to six in order to ensure that the council meets as a full body corporate so that everyone is there when decisions are made, bearing in mind the importance of those decisions.

Mrs BEGGS: The Government does not accept the proposal to amend clause 19, subclauses (1) to (5). However, we will accept the proposed subclause (6). The amendments standing in my name on the Notice Paper seek to do similar things. However, we do not accept that there should be a membership of 10, and that is covered in clause 20. There is some suggestion about local government representation. We will discuss that when we come to that clause. We also agree that a quorum should be five; so it is five out of eight. A case has been made for an ex officio member; that is a separate clause.

Mr Lewis: From the Museum.

Mrs BEGGS: In coming to what we thought was a workable council, it was decided, in consultation with a whole range of people, that although the Museum would have some interest in some of the matters which may come before the council, it had no more right to representation than perhaps the Department of Conservation and Land Management and/or other Government people. One of the important things the Committee should recognise is that, in coming up with a suitable mix of people for any of these statutory authorities, councils or commissions, it is very difficult to satisfy the wishes and aspirations of everybody. On that basis, I cannot see that the Director of the WA Museum, in an ex officio capacity, would be able to contribute to the council on every occasion. However, when matters have some direct relevance to the Museum the council will consult him before a decision is made.

Mr WIESE: I believe what the mover of the amendment is seeking to achieve is along the lines that I wish to go, but I point out to members something that has occurred to me only while I have been looking at the amendment. One can look at amendments for a long time before, all of a sudden, one realises they are not going in the direction one thought they were going. I believe there should be a person on the council representing the National Trust, whichever amendment we accept - whether it be that of the Minister or that of the member for Marmion. Initially I thought that the council needed somebody to represent local government, and I reached the obvious conclusion that that representative would be a local government councillor. However, when I look at the wording of that amendment or the Minister's amendment it occurs to me that it may not necessarily be a councillor representing local government. It could, under either scenario, be a shire clerk, a building inspector, a health inspector, or any other person who could be said to represent local government.

The concept we are trying to incorporate in the Bill, and certainly the concept I support, is that the person representing local government should be somebody from the Western Australian Municipal Association, or from any of the three groups which comprise that association, or a person nominated by those groups, so that he is representing councillors elected to be members of local government. I fear that the amendments we are contemplating may not reflect that. I ask the Minister whether it is her intention that the local government representative be a councillor elected by the people of this State, or merely somebody who comes from the whole wide field of local government.

Mrs BEGGS: What the Bill actually says is "a person who is actively involved in local government".

Mr Wiese: That is right, and a building inspector, a health inspector or a shire clerk are all actively involved in local government. Was the intention that the representative be an elected member of local government?

Mrs BEGGS: I am sure that is the intention.

Mr Clarko: Not just a ratepayer?

Mrs BEGGS: They are actively involved in local government too, or should be.

The CHAIRMAN: In order not to preclude various amendments standing in the Minister's name from being moved, it has been suggested that we have a test vote on the first section of the member for Marmion's amendment at line 24. This may seem obscure, but I will ask members to vote on whether or not they agree with the deletion of the following words -

(b) not more than

If members vote for the deletion of those words, effectively they are voting for that total amendment; if not, they do not want the amendment. I will not foreshadow what the result will be. It will be very close, I can see that, so I will put that as a test vote. Is that understood?

Mr LEWIS: I think I understand it; but I wish to take up the member for Wagin's point. Obviously the Government will not accept the amendment, but certainly in another place an amendment could be moved to the effect that the local government representative be an elected member of local government, and then it would be up to the local government peak councils to nominate suitable candidates to the Minister.

Amendment put and negatived.

Mrs BEGGS: I have another amendment, which I foreshadowed, to subclause (2) concerning the quorum's being constituted by five members. I move -

Page 21, line 24 - To delete "5" and substitute "7".

Mr CLARKO: I take it that now, as well as the chairperson, we will have "not more than 7 other persons". Before I saw my colleague's amendment to this clause, I had intended to delete the phrase "not more than". If those words were retained, I believe it would be a very poorly constructed body because it could be that there would be none. The way it reads, the Minister could just set up a chairperson and have nobody else.

Mrs Beggs: But it must have a quorum.

Mr CLARKO: It says the council will comprise a chairman and not more than seven persons. Reading it literally, the council does not need to have anybody there at all. I believe that whoever has constructed this has made a big mistake by putting in the words "not more than". The Minister can choose any number she likes - and we can argue about what is an appropriate number - but I believe it is very unwise for this legislation to provide for that situation. It would give the Minister the opportunity to have any number she likes, and if she says, "No, it does not mean that. We will fill up all these positions with people", she should not put in the words "not more than". If the Minister wants to have seven or six or five, she should say so, but to have these words "not more than" in the clause grossly weakens the intent of the legislation. The Minister would be better off having the number seven, or whatever number the Minister wishes - she has the numbers in this place - as this is a considerable negative for the legislation.

Mrs BEGGS: I have been in this Parliament for a long time and these pedantic points do not add anything to the nature of the heritage debate. I cannot be absolutely sure, but I am convinced that other legislation I have brought to this Chamber involving the composition or the membership of a council has always been framed this way by Parliamentary Counsel. Even if it is wrong, we really are wasting the time of the Parliament. It is guaranteed that the council cannot meet unless a quorum of five persons - as I shall propose later - is present, yet members opposite say that "not more than" is a problem although it will not make any difference to the composition of the council. I find this pedantic attitude to be quite disgusting.

The CHAIRMAN: I was indulging the member for Marmion, but we have voted on the question of "not more than". I ask members to address the question of the number rather than the phrase at this point.

Mr LEWIS: I am rather disappointed with the Minister when she makes the point that we are being pedantic.

Mrs Beggs: You are always asking the Government and Ministers handling legislation to be conciliatory, but you lot over there nitpick about things that do not add or take away from the whole intent of the legislation. If that is the way we are to debate legislation, I will go back and reconsider what I did with your original amendment when I tried to satisfy your worries!

Mr LEWIS: This debate is not about scoring political points. It is about making legislation that will stand on the Statute book of Western Australia probably for 50 years - this legislation should be right and proper. The Opposition has a responsibility to ensure that errors in drafting are corrected. I can remember an Auditor General's report on the Industrial and Commercial Employees Housing Authority whereby the Statute said that the membership should be five or six. The Auditor General drew the attention of the Parliament to the fact that although the chairman had produced a report, because there was no membership as the members' period of time had expired, the authority was unconstitutional and the chairman could not make the report. The point raised by the member for Marmion is very valid. It is nonsense to say that "not more than" should be in the legislation as the Statute should read "There shall be seven members."

Mrs Beggs: Sit down and I will amend it - I cannot believe this!

The CHAIRMAN: We cannot do that as we have voted on this question.

Mrs BEGGS: If it will satisfy the paranoia -

Mr Lewis: It is not paranoia

Mrs Beggs: Members opposite are wasting the time of the Parliament and I find it ludicrous.

Mr CLARKO: No intelligent person could accept the argument of the Minister. The situation is that the Minister has changed the number from five to seven, yet if she is successful the result will be that only four people will need to be appointed to the council because that would constitute a quorum.

The CHAIRMAN: Order! An amendment has been foreshadowed.

Mr CLARKO: Whatever the number may be, it would be possible to have 777 instead of the seven. The problem with this clause is that no-one knows the numerical strength of that body. It could be seven, six or five, and any number below five could not meet because it would not constitute a quorum. People are interested in what will be the size of the council; obviously the Minister is interested as she wishes to change the number from five to seven. We have an interest in the number, but when the clause contains the words "not more than" it becomes a silly piece of legislation. Whoever drafted it is a nincompoop because we do not know what the number will be. One cannot change five to seven when in actual fact five will be enough. This is some of the silliest drafting I have ever seen and the inclusion of those words compounds the situation. Why can the Government not say it wants seven people on this body? The Government should have an interest in this matter because people in the community are interested in knowing who will be on the council. The Minister has added to the illogicality of the situation by changing the number from five to seven, yet stating that five is enough. She has included the words "not more than", and then suggests that we are nitpicking.

If the Government were to ignore the quorum, the membership could comprise nil people. Why has the Government changed the number from five to seven? I would have thought that the Minister would put the argument that she introduced this legislation because the Government has in mind five people who represent five interest areas and it feels that a case exists for adding a couple of other interest areas, so the numbers should be increased. However, to include the words "no more than" is sheer, crass nonsense.

Mrs BEGGS: As the Chairman said, this matter has been voted on. Maybe the other House will bow to the intellectual superiority of members opposite!

The CHAIRMAN: I must restrict debate purely to the question of the numbers.

Mr WIESE: I am happy to see the number increased to seven members because it gives an opportunity to broaden the scope of the council - nobody in the Chamber has a problem with that. However, I am disappointed by the Minister's attitude. She has the right to be annoyed, but the persons she should be annoyed with are the persons who drafted this clause and not the members of this Chamber. It is a stupid piece of drafting and it should never have come before us in this way. The point raised by the member for Marmion is correct - the Minister cannot get away from that. If the quorum is to be raised to five, as has been foreshadowed, and the number of people who can be appointed is limited, frankly, that is not the intention of the Chamber or the Minister. It is no good rousing members on this side of the Chamber because the Minister believes that we are nitpicking. When this matter goes

before the courts, because somebody disagrees with what has been done by the council, it will be the lawyers who will be nitpicking and the general public will be paying the costs of the court case. The legislation should be drafted properly and precisely as intended - that is the point we are trying to make!

Amendment put and passed.

*Progress*

Progress reported and leave given to sit again, on motion by Mrs Beggs (Minister for Transport).

**REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES AMENDMENT BILL**

*Returned*

Bill returned from the Council without amendment.

*House adjourned at 4.31 pm*

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# QUESTIONS ON NOTICE

## HOSPITALS - HEATHCOTE HOSPITAL

### *Graylands Hospital - Level 4 Appointments*

1057. Mr TUBBY to the Minister for Health:

- (1) Could the Minister supply a list of the appointments which have been made to level 4 positions at Graylands and Heathcote Hospitals during the last 12 months?
- (2) What were the qualifications of the successful applicants at the time of lodging their applications?

Mr WILSON replied:

- (1) It is assumed that the question relates to the new Mental Health Nurses' Career Structure and that "Level 4" refers to the Nursing Coordinator positions -

#### Graylands Hospital

Coordinator Nurse Manager

Coordinator Mental Health Nursing

Coordinator Mental Health Nursing Acute

#### Heathcote Hospital

Coordinator Nurse Manager

Coordinator Mental Health Nursing/Clinical Nurse

- (2) Each of the successful applicants held a Diploma in Mental Health Nursing and was registered with the Nurses' Registration Board of Western Australia at the time of lodging applications.

## WATER RESOURCES - COMMERCIAL AND NON-COMMERCIAL PROPERTIES

### *Gross Rental Value Increases*

1061. Mr MENSAROS to the Minister for Water Resources:

What was the average percentage increase in gross rental value of -

- (a) non-commercial;
- (b) commercial;

properties being the basis of water related rate assessments for the 1990-91 financial year over the 1989-90 financial year, separately stated in the -

- (i) metropolitan;
- (ii) country areas?

Mr BRIDGE replied:

- (1) Average percentage increase in GRV for metropolitan properties 1990-91 over 1989-90 -

(a)	rated for residential sewerage of which	48.0%
	16.0 per cent was phased in 1990-91 (water rates not calculated from GRVs).	

(b)	rated for non-residential water of which	86.5%
	28.8 per cent was phased in in 1990-91	

	rated for non-residential sewerage of which	86.9%
	29.9 per cent was phased in in 1990-91	

- (2) Average percentage increases in country properties - 1990 Gross Rental Values over 1989-90 Rateable Values were -

Town	Residential	Non-Residential	Years since previous valuation
Albany	30.6%	27.2%	5
Manjimup	5.8%	28.9%	7
Kalbarri	28.8%	81.8%	8
Esperance	23.6%	2.0%	6
Laverton	80.8%	61.4%	6
Boddington	7.1%	50.3%	4
Wundowie	63.8%	40.9%	6
Northam	23.3%	5.7%	6

## NOTE

These figures relate to towns with water and sewerage services. Figures related to towns with water only are not readily available. The information will be provided to the honourable member for Floreat as soon as available.

## LOCUSTS - PLAGUE

1066. Mr HOUSE to the Minister for Agriculture:

- (1) Further to question 1023 of 1990 -
  - (a) what level of funding has the Government committed to the fighting of the predicted locust plague;
  - (b) for what purpose will the funds be distributed;
  - (c) whom will the funds be distributed for;
  - (d) has the department identified any further local government at risk from a potential locust plague, and if so which ones?
- (2) Does the Minister agree with the Premier's statement on 14 August 1990 that the estimated cost of a locust plague to the Western Australian economy will be \$10 million dollars?
- (3) Are there any Government provisions for schemes to provide compensation to those farmers affected by the locust plague?
- (4) What level of farmer participation in the eradication scheme is required?
- (5)
  - (a) Has an awareness campaign been mounted to inform the rural community of its responsibilities;
  - (b) if so, what form has this campaign taken?

Mr BRIDGE replied:

- (1)
  - (a) \$870 000.
  - (b) Strategic spray costs (application and insecticide) will be fully funded. Insecticide for crop protection will be subsidised to farmers.
  - (c) The Agricultural Protection Board and eligible farmers.
  - (d) No.
- (2) Yes.
- (3) No.
- (4) Farmer assistance will be required in surveys, assessing areas to be treated, method of application and choice of insecticide.
- (5)
  - (a) Yes.
  - (b) Press releases have been made and a video prepared for television and showing at farmer group meetings. Advisory leaflets.



**DOWDING, HON PETER - PARKER, HON DAVID**  
*Public Moneys Payments*

1079. Mr COWAN to the Premier:

- (1) What public monies have been paid to or on behalf of the former Premier, Mr Peter Dowding, and the former Deputy Premier, Mr David Parker, since their resignations from Parliament?
- (2) What taxpayer funded facilities or perquisites have been provided to Mr Dowding and Mr Parker since their resignations from Parliament?
- (3) (a) Have any further payments, facilities or perquisites been promised to either Mr Dowding or Mr Parker;  
(b) if yes, what?

Dr LAWRENCE replied:

(1)-(3)

Apart from expenses incurred as a result of a defamation trial as a former Premier, Mr Dowding has been provided with entitlements in accordance with the Salaries and Allowances Tribunal's various determinations, including that of 6 July 1990. Variations from these entitlements have been in relation to the use of a Government vehicle in Sydney and costs resulting from his relocation. As has already been indicated, the variation of the entitlement in respect of the use of a vehicle will result in an overall saving.

With respect to the former Deputy Premier, Mr Parker, the Government has agreed to provide him with access to a shared office facility, a secretary, limited use of a vehicle and reimbursement of telephone costs for a brief period to enable him to finalise certain matters with which he was involved as a Minister and member of Parliament. I understand that similar short-term arrangements have been made in the past.

**HOMESWEST - RESIDENTIAL HOUSING ALLOTMENTS, METROPOLITAN REGION**

1089. Mr LEWIS to the Minister for Housing:

- (1) What was the total number of residential housing allotments developed and held for sale in the metropolitan area by Homeswest on 30 June 1990?
- (2) What was the total number of residential housing allotments in the metropolitan region developed by Homeswest from 1 July 1989 to 30 June 1990?
- (3) What was the total amount of money expended on the housing lots as per (3) above?

Mrs HENDERSON replied:

- (1) 1 643 lots. (Excludes lots retained for rental program.)
- (2) 2 850 lots. (Excludes 411 dwelling unit equivalents achieved through redevelopment.)
- (3) \$27 276 855. (Money expended in 1989-90 on lot production excluding redevelopment.)

**KINGS PARK RESTAURANT - REDEVELOPMENT**

1092. Mr COURT to the Minister for the Environment:

- (1) When will a new restaurant be constructed at Kings Park?
- (2) Who will be building and operating the restaurant?
- (3) When is its expected completion date?

Mr PEARCE replied:

- (1) Expressions of interest or tenders for construction of the new restaurant will be invited shortly.

- (2) The builders and operators of any new restaurant will not be known until the Kings Park Board has considered those applicants expressing an interest or tendering and a decision is made by the Board.
- (3) It is hoped a new restaurant on the existing lease will be completed in 1991.

**STATE ENERGY COMMISSION - TREE LOPPING POWERS, PRIVATE PROPERTY**

1094. Mr COURT to the Minister for Fuel and Energy:

- (1) Is the Minister aware the State Energy Commission of Western Australia has the power to lop trees on private property without first notifying the landowner of the intention to do so?
- (2) Is this is an appropriate way to treat landowners?

Mr CARR replied:

- (1) Yes. Under section 48 of the SEC Act 1979 SECWA has power to enter onto land and carry out works to safeguard the supply system in an emergency. Under section 54 of the SEC Act 1979 it is the duty of the occupier of land to keep vegetation from interfering with SECWA's supply system. If the occupier does not carry this out, SECWA can enter the land without notice and carry out necessary clearing works, subject to some exceptions set out in section 54.
- (2) At my request SECWA recently reviewed and standardised its tree pruning policy and customers are informed of their obligations to keep vegetation clear of the supply system. Furthermore, customers are advised in advance of tree pruning activity on their property. However, in emergency situations where the supply system is threatened SECWA may enter private property and prune trees without giving prior notice.

**POWER - CONSUMPTION AND CAPACITY**  
*March-August Highest Daily Figures*

1098. Mr COURT to the Minister for Fuel and Energy:

- (1) What has been the highest daily power consumption figures for the months of March, April, May, June, July, August this year?
- (2) What was the plant availability on these days?

Mr CARR replied:

- (1) The highest daily power consumption was as follows -

6 March 1990	1675MW
10 April 1990	1470MW
28 May 1990	1730MW
27 June 1990	1826MW
24 July 1990	1855MW
13 August 1990	1715MW

- (2) Plant capacity was as follows -

6 March 1990	1880MW
10 April 1990	1625MW
28 May 1990	1940MW
27 June 1990	2014MW
24 July 1990	2229MW
13 August 1990	2029MW

**SHEEP - "E. OVIS" BLOOD PARASITE**

1104. Mr HOUSE to the Minister for Agriculture:

- (1) What is the incidence of the blood parasite *E. Ovis* in Western Australian sheep flocks?

- (2) Which districts in Western Australia are most affected by *E. Ovis*?
- (3) What is the estimated cost of the impact of the *E. Ovis* parasite to the wool and meat sectors of Western Australia's rural economy?
- (4) What steps is the Minister taking to reduce the incidence of *E. Ovis* in Western Australian sheep flocks?

Mr BRIDGE replied:

- (1) A recent survey indicated that up to five per cent of all weaner sheep in the State may be infected and that infection may be present on up to 50 per cent of properties.
- (2) The survey indicated that infection is more common in agricultural areas south of Perth. There does, however, appear to be a pocket of infection in the Geraldton area.
- (3) Unknown
- (4) Further investigations will be undertaken to evaluate the economic impact of the problem prior to developing control measures.

#### APHIDS - CROP DAMAGE

1105. Mr HOUSE to the Minister for Agriculture:

- (1) Is the Minister aware that crops in Western Australia are at considerable risk to the threat of aphids, and if so can the Minister name those crops at risk?
- (2) What steps is the Minister taking to deal with a potentially high level of aphids?
- (3) What regions of Western Australia are most vulnerable to damage from an aphids build-up?
- (4) What is the estimated cost to the Western Australian rural economy of an aphids build-up?

Mr BRIDGE replied:

- (1) Yes. Lupins - through spread of cucumber mosaic virus (CMV) - wheat, barley, pastures - sub-clover and medics - and potatoes.
- (2) The Department of Agriculture has issued warnings as to the widespread threat of aphids throughout the agricultural areas. Specific warnings have been issued regarding cucumber mosaic virus (CMV) risk to lupins and cereal aphid damage potential to grain crops. These warnings emphasise the strategies available for control.
- (3) The early aphid build-up observed this year in most parts of the State suggests that if favourable conditions continue aphid damage has the potential to be widespread throughout the agricultural areas.
- (4) Costs are of several types -

Direct crop losses.

Lupin seed crops can be devalued if infected with CMV.

Control costs, both in terms of insecticides and costs of application.

The total cost to the WA rural economy will depend on both the build-up and the control program; for example, in extreme cases aphids have caused losses of up to 1.5t/ha in barley and heavy infestations of CMV have reduced lupin yields by up to 80 per cent.

#### IRAQI CONFLICT - TRADE EMBARGO

##### *Rural Sector Compensation*

1108. Mr HOUSE to the Minister for Agriculture:

- (1) Does the Government support the concept of compensation to the rural sectors disadvantaged by the trade embargo currently in place in Iraq?
- (2) If no, can the Minister outline the reasons for this stance?

- (3) If yes, what form will the compensation take?

Mr BRIDGE replied:

- (1)-(3)

The State Government is not directly involved with any compensation to exporting industries adversely affected by the imposition of the embargo on trade with Iraq.

The power to exercise control over Australia's external trade clearly resides with the Commonwealth and the question of compensation can only be resolved by the Commonwealth.

#### CONSERVATION AND LAND MANAGEMENT DEPARTMENT - QUEEN'S COUNSEL INQUIRY

1111. Mr BRADSHAW to the Minister for the Environment:

- (1) What is the estimated cost of the Queen's Counsel investigating the practices of Department of Conservation and Land Management?
- (2) Who has been appointed to this position?
- (3) What are the terms of reference?
- (4) When is he expected to report?

Mr PEARCE replied:

- (1) Not determined at this stage.
- (2) Daryl Williams QC.
- (3) In relation to allegations of illegal logging and CALM's response to them Mr Daryl Williams QC is asked to determine whether -
  - (a) There is any evidence of illegal logging as alleged.
  - (b) CALM can demonstrate that its management, allocation and audit procedures can account for all timber removed from South West forests.
  - (c) There is any deficiency in CALM's procedures and how any such deficiency could be overcome.
- (4) When the inquiry is complete.

#### MARINAS - EXMOUTH *Financial Commitment*

1115. Mr COURT to the Minister for Transport:

- (1) What financial commitments has the Government made in relation to the construction of a new marina at Exmouth?
- (2) Was the local government informed of the commitments made?

Mrs BEGGS replied:

- (1) A financial commitment has yet to be made by the Government in relation to the construction of the Exmouth marina.
- (2) Not applicable.

#### WATER RESOURCES - CHARGES *Revenue Increase*

1117. Mr MENSAROS to the Minister for Water Resources:

What is the anticipated increase of revenue in 1990-91 financial year in -

- (a) non-commercial;
- (b) commercial;
- (c) other;

water related fees and charges separately stated for -

- (i) metropolitan;
- (ii) country areas?

Mr BRIDGE replied:

# REVENUE

	\$Million 1989-90	\$Million 1990-91 (Estimates)	\$Million Increase	%
<b>METROPOLITAN:</b>				
Residential*	161.9	179.4	17.5	10.8
Non-residential*	106.4	118.9	12.5	11.8
Other	<u>11.4</u>	<u>11.2</u>	<u>-0.2</u>	<u>-1.7</u>
Total	279.7	309.5	29.8	10.6
<b>COUNTRY:</b>				
Residential*	36.1	40.7	4.6	12.7
Non-residential*	50.1	56.5	6.4	12.8
Other	<u>1.0</u>	<u>1.9</u>	<u>0.9</u>	<u>90.0</u>
Total	87.2	99.1	11.9	13.6

\* The average increase for like residential and non-residential properties which were rated for full year 1989-90 and 1990-91 in both metro and country areas was 7.9 per cent. The difference is attributable to growth, interims and changes in land use.

The above figures include water sales revenues, which are subject to both growth and climatic conditions.

## TOTALISATOR AGENCY BOARD - RADIO 6PR *Telephone Survey*

1123. Mr MacKINNON to the Minister for Racing and Gaming:

- (1) Has the Totalisator Agency Board conducted any community opinion polls or market research into the effectiveness of Radio 6PR and its broadcasting?
- (2) If so, what was the general outcome of that opinion poll/survey?
- (3) Who conducted the poll/survey and what was the cost?

Mrs BEGGS replied:

- (1) Yes, in 1987, 250 people who were 6PR listeners and/or TAB customers participated in a telephone survey to determine the opinions, attitudes and listening behaviour of 6PR listeners.
- (2) The survey found that -
  - (a) 6PR had a significant share of the radio audience market.
  - (b) An important group of 6PR's listeners are also TAB punters and make extensive use of the station's broadcasting of racing - both race descriptions and results.
  - (c) Further, a larger proportion of 6PR listeners regardless of whether they are TAB punters, listen to the race broadcasts and therefore there appears to be no justification for any reduction in the amount of air time currently devoted to racing on 6PR.
  - (d) There is a very high level of listener satisfaction with the current program format of 6PR.
- (3) Chadwick Martin Consultants conducted the survey for TAB at a cost of \$20 300.

**DEARLE, MR JOHN - STATE ENERGY COMMISSION**  
*Retirement*

1125. Mr MacKINNON to the Minister for Fuel and Energy:

- (1) Would the Minister advise when Mr John Dearle retired from the State Energy Commission of Western Australia?
- (2) In his retirement did Mr Dearle opt for an early retirement process, or did he reach the age of retirement?
- (3) On his retirement, was any agreement reached with Mr Dearle about his future employment with SECWA?
- (4) If so, what was the nature of the agreement?

Mr CARR replied:

- (1) 8 January 1988.
- (2) Mr Dearle opted for early retirement.
- (3) No.
- (4) Not applicable.

**CAPITA CENTRE - OFFICE SPACE**  
*Government Ministers, Departments or Agencies*

1126. Mr MacKINNON to the Premier:

- (1) Would the Premier advise what Government Ministers, departments or agencies currently occupy office space in the Capita Centre?
- (2) How long are these leases negotiated for?
- (3) Are any of these office leases to be terminated within the next 3-4 years?
- (4) If so, which offices?
- (5) Are any of these offices to be relocated into the Westralia Square project?
- (6) If so, which offices?

Dr LAWRENCE replied:

- (1) Capita Stage I  
Directorate of Equal Opportunity  
Equal Opportunity Commission  
Treasury Department  
Capita Stage II  
Ministry of the Premier and Cabinet  
Deputy Premier  
Attorney General  
Minister for Planning, Lands, Heritage and The Arts  
Minister for Agriculture, Water Resources and North-West  
Parliamentary Secretary of the Cabinet  
Treasury Department  
Salaries and Allowances Tribunal  
Department of Trade Development (Executive)  
Office of the Family  
Social Impact Unit  
Rural Innovations Centre  
Capita Stage III  
Public Service Commission (Implementation and Review Branch)
- (2) Capita Stage I - leases expire on 28.2.91, 30.6.91 and 28.2.92.  
Capita Stage II - lease expires on 30.4.99.  
Capita Stage III - lease expires on 30.9.90.

- (3)-(4) Some leases in Capita Stage I and III are to be terminated but not yet identified.
- (5) Yes.
- (6) Department of Trade Development - presently in three separate locations. Will be relocated with Ministry of Economic Development and Trade and Department of Resources Development.

**GOVERNMENT AGENCIES - UNFILLED VACANCIES**

1127. Mr MacKINNON to the Premier:

How many unfilled vacancies are there in Government agencies at the present time?

Dr LAWRENCE replied:

Since the introduction of flexible FTE management of agency staffing levels in 1986, the term "vacancy" has had little significance, since agencies may have any number of registered positions within their organisational structure.

Chief Executive officers allocate staff resources to areas of priority and "fill" a certain number of these registered positions, while operating within an approved average staffing level determined each year by the Expenditure Review Committee.

**FISHING - DRIFTNET VESSELS**  
*Western Australian Waters*

1131. Mr GRAYDEN to the Minister for Fisheries:

Is there any indication that driftnet vessels are continuing to operate in waters adjacent to the Western Australian coastline?

Mr GORDON HILL replied:

In relation to driftnet vessels in the Australian fishing zone, the answer is no. With respect to international waters of the Indian Ocean, advice from the Australian Fisheries Service indicates the practice continues.

I am on record as having said several times that there will be no driftnet fishing in waters controlled by Western Australia under the offshore constitutional convention.

**TROCHUS SHELLS - BARDI COMMUNITY, ONE ARM POINT**  
*Commercial Venture Proposal*

1139. Mr GRAYDEN to the Minister for Aboriginal Affairs:

What stage has been reached in respect of the proposed commercial trochus shell venture for the Bardi community at One Arm Point?

Dr LAWRENCE replied:

The Bardi Aboriginal community at One Arm Point is developing the trochus shell industry. I am advised that the Bardi community plans to -

employ a marine biologist to develop a reef management plan;

develop a commercial structure to manage fishing operations including trochus fishing;

develop a jewellery manufacturing and shell polishing project in the community with TAFE's support;

investigate the feasibility of leasing button blank machines on a trial basis, to manufacture buttons; and

investigate the feasibility of establishing a trochus shell hatchery.

## QUESTIONS WITHOUT NOTICE

## ISAACS, THE LATE MRS JOAN - BURIAL APPROVAL

281. Mr MacKINNON to the Premier:

- (1) Is the Premier aware that the Minister for Local Government has given approval for the late Mrs Joan Isaacs to be buried outside a proclaimed cemetery?
- (2) If so, will she takes steps to reverse this decision in view of the serious concerns that are being expressed by the majority of Aboriginal people in the Leonora area?

Dr LAWRENCE replied:

(1)-(2)

Members may not be aware that this is a very sensitive matter, and I am disappointed that it has been raised in the Parliament. It might have been better dealt with by discussion with the Leader of the Opposition and, indeed, any other member. Hon Norman Moore from the other place has written to me on this subject.

I am aware that the Minister made that decision because he informed me of it, and it was made on what I think were very compassionate grounds. We are all aware of the difficulties that have arisen between a group of Aboriginal people in the area and the family that is involved in the sad death that is to result in this burial. It would be extremely difficult at such short notice - it is less than 24 hours until the planned burial - to arbitrarily rescind that approval. We are working very hard to ensure that we can conciliate between the local community and -

Mr MacKinnon: It could well change the whole relationship between the Aboriginal people in that area.

Dr LAWRENCE: We are taking advice on that question. It is a little more complicated than that, and I appreciate the Leader of the Opposition's concern, but it is important that we do nothing to inflame the situation, that we all work together, and that we continue within the next 24 hours to ensure that the outcome is not one that will result in difficulties for the people of that area.

## TOURISM - SEX TOURS

*South East Asia*

282. Dr WATSON to the Minister for Consumer Affairs:

Has the Minister received official confirmation of the remarks made by the member for Applecross that, contrary to their attitude displayed in the House yesterday, Opposition members are prepared to cooperate with the Government to take action against Western Australian organisers of sex tours to South East Asian countries?

Mrs HENDERSON replied:

I, along with many other people in this House yesterday afternoon, was extremely concerned and disappointed with some of the remarks made by the Opposition. I have not received any official approach from the Opposition. I gave an undertaking in this House yesterday afternoon that I would meet with people from the travel industry, that I would raise with them the concerns that the member for Kenwick raised yesterday in the House, and that I would seek their cooperation to determine ways in which this problem could be tackled.

Mr MacKinnon: Have you got any examples yet?

Mrs HENDERSON: I will answer that question. I have not been approached officially by the Opposition offering its bipartisan support on this matter. I did not hear the radio programs this morning but it is my understanding that



some members of the Opposition were vocal on this matter on talkback radio shows expressing their concern about this issue. I was pleased to hear that because from the comments expressed in this House yesterday afternoon one would not have picked up any concern about the basic issue raised by the member for Kenwick during the discussion that took place. I understand that this morning the Opposition expressed its concern about the issue and that a member of the Police Force indicated that he was aware that these kinds of tours were being organised and that it was not a figment of the imagination of the member for Kenwick.

Mr MacKinnon: I heard him.

Mrs HENDERSON: He did not ask people to act irresponsibly as is the Opposition. He said on the radio that he was aware that these tours are taking place and was concerned about the matter, particularly when it had been raised during a week when the Police Force was devoting an enormous amount of its resources and time to tackling the problem of child sexual abuse. This is a very important problem in the community. The question raised yesterday by the member for Kenwick impinges directly on that problem; it is a classic example of that problem. I am expressing exactly what I understood Detective Sergeant Smart to say on radio this morning and he did not rush into naming travel agents.

Mr MacKinnon: The Opposition has already drafted an amendment and intends to move it to be included in the Bill that is before the Parliament now.

Mr Fred Tubby: We hope that you will support it.

Mrs HENDERSON: I hope that when I organise a meeting with travel agents to seek their cooperation, which I feel sure I will get, I will receive the support of the Opposition.

#### LARK HILL RACING COMPLEX - GOVERNMENT LOAN REPAYMENTS

283. Mr TRENORDEN to the Minister for Racing and Gaming:

- (1) Have the operators of the Lark Hill racing complex been making interest or capital repayments on their Government loan?
- (2) Have the operators of the Lark Hill complex approached the Government to vary any conditions of that loan?

Mrs BEGGS replied:

(1)-(2)

The operators of the Lark Hill racing complex have sought a deferment of payments on the loan. Negotiations are taking place with the West Australian Turf Club to determine the future of the Lark Hill complex. Those negotiations are in regard to maintenance and ongoing improvements to the complex. Once the negotiations are completed I am confident that a proper financial arrangement for the repayment of the loan and the future works at the site will be completed.

#### TOTALISATOR AGENCY BOARD - STAFF

##### *Business Interests Disclosure*

284. Mrs WATKINS to the Minister for Racing and Gaming:

Can the Minister advise of the action taken following reports that the Totalisator Agency Board staff were directed to provide a full disclosure of all their outside business interests and fees?

Mrs BEGGS replied:

As I indicated to the House on Tuesday, I was aware of concerns being expressed by some staff at the Totalisator Agency Board on this matter and I requested that the TAB provide me with a copy of the directive. The acting general manager has provided me with a copy of this memo to the staff dated 17 August 1990 and I have had the opportunity to discuss the contents with

him. I am satisfied that the directive by the TAB management seeking details of all the staff's business interests was issued in good faith.

Nevertheless, as a result of my discussion with the acting general manager of the TAB, Mr Secker, who has also discussed the purpose of the directive with the Civil Service Association, the memo to staff is to be modified. As a result, staff have been acquainted with the Public Service Act and administrative instructions which cover matters of outside employment and conflicts of interest. Staff may volunteer to disclose details of business interests but there is no compulsion to do so.

There may be a need to further review this matter when the Public Service Commissioner has completed his examination of the application of the Public Service code of conduct to the public sector. The actions taken by the TAB board and the acting general manager should be seen in a positive light. It is important to maintain public confidence in the TAB and to assist members of the staff to avoid potential conflicts of interest that may arise in the performance of their duties at the TAB.

#### FEDERAL BUDGET - TRANSPORT IMPROVEMENT GRANT

285. Mr McNEE to the Premier:

- (1) Is the Premier aware of details contained within advances to the Federal Minister of Finance's Budget documents which have revealed a hitherto unannounced payment of \$20 million made to Western Australia as an urgent and unforeseen capital grant for transport improvement?
- (2) Is the Premier aware that this grant is one of several special payments to the favoured Labor controlled States which have been identified by the Federal shadow Minister for Finance as having abused the legal parliamentary requirements covering the disclosure of budgetary expenditure, and it has been claimed that these payments are over and above those publicly revealed at the recent Premiers' Conference?
- (3) Will the Premier confirm that this unannounced capital grant was agreed to at a meeting between the Premier of Western Australia and the Federal Treasurer as stated in the documents?
- (4) Why was this payment not paid through normal budgetary procedures?
- (5) Why was the payment not publicly announced?
- (6) What was the urgent and unforeseen purpose for which this payment was required?
- (7) Was the money actually used for the purpose for which it was requested?

Mr Taylor: We will send the answer back with Nick Greiner.

The SPEAKER: Order! I think fairly early on in the piece we ought to be apprised of the sorts of questions which are able to be asked in this place and the sorts which are not. Each of those questions which the member has posed could be asked in this place in a different form, but in the form in which they have been asked the questions from five on are improper. Having said that, if the Premier wants to answer them it is up to her.

Dr LAWRENCE replied:

(1)-(7)

It would probably help to have the six or seven parts in front of me, but I did attempt to take notes. As the member opposite is probably aware, at Premiers' Conferences discussions are held about grants to States, and at times additions are made to those grants. There is nothing unusual about that. As the member has indicated, they are actually revealed in the Budget papers.

The special payments are made under certain headings. For instance, this year we made an application for a special allocation for two purposes; for the SEC in relation to borrowings, and for transport funding, particularly for the

northern suburbs railway. In one case we received slightly less than we asked for, and in the other nothing. This \$20 million is in recognition of the fact that we received nothing from the special loan fund, and we are actually spending huge amounts on the northern suburbs railway. We are spending \$200 million on the northern rail link.

Yes, it was the subject of a meeting between the Federal Treasurer and me, but that was unexceptional in this context because those meetings were taking place over two days.

# SAFETY ELECTRICAL SERVICES OF WA - SESWA ACRONYM *Selling Techniques*

286. Mr RIPPER to the Minister for Consumer Affairs:

- (1) Is the Minister aware of a company called Safety Electricity Services of WA using the acronym SESWA whose sales representatives call on consumers carrying State Electricity Commission brochures and selling residual current devices, also known as circuit breakers or safety switches?
- (2) Has the Ministry of Consumer Affairs any concerns about the selling techniques employed, and is any misrepresentation taking place?

Mrs HENDERSON replied:

(1)-(2)

I am happy to advise that the Ministry of Consumer Affairs and SECWA are very concerned about the activities of this company which goes under the name of SESWA. A number of consumers have telephoned to find out if there is any connection, or if the company has an endorsement from SECWA. Two points give rise to confusion. One is that the sales persons of this company apparently arrive with the letters "SESWA" on their overall pockets, but a clip pen in the pocket obscures the "S"; and they give out SECWA brochures about circuit breakers which tend to give the impression to consumers that the person represents SECWA.

One of my greatest areas of concern is that this person often proceeds to give a demonstration designed to show the effectiveness of the circuit breaker. The normal practice is that the salesman has a container of water into which he puts his hand. He then introduces a live wire into the water and puts his circuit breaker in to demonstrate how effective it is. It would not take too much imagination on the part of members present to realise the enormous danger that presents to young children watching such a demonstration of how a circuit breaker works.

Consumers who have contacted the Ministry of Consumer Affairs have been advised that this person does not represent the State Energy Commission of Western Australia. The ministry has also taken up with the principal of that company the techniques used to sell this device, the method of demonstrating it and the potential to mislead consumers into thinking that it is SECWA that is calling. I must say that the device itself is safe and legitimate and I have no complaint about it. However, I am extremely concerned about the sales techniques used by these salespeople.

# WA INC - ROYAL COMMISSION

287. Mr LEWIS to the Premier:

- (1) As the Premier now has the benefit of advice of the McCusker reports, can she advise the House whether the Government intends to acquiesce to the editorials of all of the major local newspapers, People for Fair and Open Government, 90 independent legal practitioners in Western Australia, 83 per cent of the Western Australian public, and Her Majesty's Opposition and have a comprehensive Royal Commission into the political corruption and failures of Government business dealings?

(2) If not, why not?

Dr LAWRENCE replied:

(1)-(2)

I have certainly had the benefit of advice from the McCusker report but I would have thought that, as a member of this House, the member for Applecross might want to see it too.

Mr Lewis: You are not showing it to me.

Mr Shave: We are not holding it up.

Dr LAWRENCE: We are not holding it up either, frankly.

Mr Clarko: Who believes that?

Dr LAWRENCE: The member for Marnion may not, but he should ask himself whether there is any benefit in our holding it up. We wanted to have it in on Tuesday. We still have not had replies from all of the Attorneys General. Our Attorney General has made urgent requests to them today to comply; so there is no question of our holding up that report. I would rather we were introducing it this afternoon, frankly.

That aside, as to acquiescing to the requests for a Royal Commission, today for the first time I have heard a member opposite use the term "political corruption". That has not previously been suggested by members opposite, nor indeed, I think, even in most extreme moments, by some of those groups which the member for Applecross nominated, People for Fair and Open Government in particular.

I think the member should be extremely careful in the implication that there has been political corruption.

Mr Lewis: I believe there has been political corruption.

Dr LAWRENCE: It is a view the Opposition has clearly wanted to promote, and which to some extent it has succeeded in promoting; but even the member for Applecross has not had the temerity, until today, to suggest such a thing. I suggest that before he reaches conclusions of that kind he examine the McCusker report.

Mr Lewis: You promised you would tell the people of Western Australia after the McCusker report whether you would hold a Royal Commission.

Dr LAWRENCE: That is correct.

Mr Lewis: Now tell us.

Dr LAWRENCE: The member has no doubt heard requests from a number of people that the Government not announce its expressed intentions until after the report has been released. We can hardly acquiesce to both of those demands.

Mr MacKinnon: Who said that? Nobody.

The SPEAKER: Order!

Dr LAWRENCE: I think it is important to indicate, too, that those bodies which have asked for various types of inquiries do so, again, in the light of the McCusker report. I would question the independence of some of those bodies. I respect the surveys that have shown that a large number of the community want a Royal Commission, but I would have to say that some of those requests are based on the assumption that that is all that can be done.

The organisation PFOG, headed so ably by my brother, provides an opposition to this Government that is sadly lacking on the Opposition benches. I respect the views of those people when they are genuinely independent, but I suspect that some of the bodies the member for Applecross has mentioned, particularly Her Majesty's Loyal Opposition, could not be considered to be in that category.

INTERSTATE COMMISSION - "REPORT ON ROAD FUNDING AND  
TRANSPORT CHARGES"

288. Mr COWAN to the Minister for Transport:

- (1) Has the Department of Transport examined the Interstate Commission's "Report on Road Funding and Transport Charges"?
- (2) If so, what is the department's response to the report, and does the Government support the recommendations of that commission?

Mrs BEGGS replied:

- (1) The Department of Transport has examined the proposal put forward by the Interstate Commission on road user charges and some other matters. I am in the process of preparing a Cabinet submission to put the Western Australian Government's position to the commission.
- (2) In a general sense, the Western Australian Government supports some form of road cost recovery charges. We do not support any suggestion that the State should relinquish its control over moneys raised by the Commonwealth Government or to any body set up by it. I will be in a position to report to the House very soon about the situation once the matter has been examined by Cabinet.

McCUSKER REPORT - RELEASE DELAY

289. Mr COURT to the Premier:

My question is supplementary to the previous question in relation to the McCusker report.

- (1) Has the Government deliberately delayed the release of the McCusker report until after the rally to be held tomorrow by People for Fair and Open Government at Forrest Place?
- (2) With the jury verdict now in on the Hugall trial and all legal obstacles removed, why cannot the report be tabled today?

Mr Pearce: You didn't listen to the previous answer.

The SPEAKER: Order!

Mr COURT: As far as the Attorneys General are concerned, with other cases the Government has been able to get a response within a day.

- (3) When the report is tabled will the Government respond immediately in relation to the establishment of a Royal Commission?

Dr LAWRENCE replied:

(1)-(3)

Frankly, I find the question alarming. I would have hoped that the member would take some advice before asking a question involving legal proceedings, particularly in naming one. The media in this town have understood the dangers of doing what the member has just done.

Mr MacKinnon: Prior to the conclusion of a trial.

Mr Court: I just said that the jury verdict is in.

Dr LAWRENCE: One needs to be extremely careful on that question. I am simply warning the member about that.

Mr Court: Does the Premier think I am not careful?

Several members interjected.

The SPEAKER: Order! Let us have one question and one answer. It really is preferable during question time at least if we can try to reduce the number of interjections. It is important that all members in this place have the opportunity to ask questions. Question time is short enough without making the situation worse by continual interjections from both sides of the House.

Dr LAWRENCE: I was trying to issue a friendly warning to members of the Opposition on what they might or might not say. In general terms, the conclusion of any trial -

Mr Court: When the report comes in, the Premier does not want us to say anything in this Parliament.

Dr LAWRENCE: Not at all. I wish to speak generally because I do not wish to fall into the same trap that the member opposite has fallen into. The conclusion of any trial may be seen to be when a verdict is in, or it may be seen to be when sentencing is completed. In a sense, that is the question. The real issue we are facing, however, is legal advice on that general question -

Several members interjected.

The SPEAKER: Order!

Dr LAWRENCE: The impediment is not any legal proceedings that might or might not be concluded but the fact that the Attorneys General have not replied. It is important that Opposition members are careful about the way they express their questions.

On the question of a PFOG rally, frankly I can get that sort of advice from my brother any day of the week and I would not be waiting around for any rally.

#### TRAVEL AGENTS ACT - AMENDMENT

290. Mr FRED TUBBY to the Minister for Consumer Affairs:

Will the Minister support an amendment which I placed on the Notice Paper this morning to amend the Travel Agents Act currently before the House to revoke the licences of travel agents who knowingly organise tours for the conduct of illegal activities overseas?

Mrs HENDERSON replied:

I am extremely pleased that the Opposition has decided to take some action on this matter.

Mr Lewis: It is better than just talking about it.

Several members interjected.

The SPEAKER: Order! It is clear to me and it is probably clear to everybody in the Public Gallery that members pay no attention whatsoever to requests from the Speaker. To help proceedings along, and because members have shown no regard for what I have had to say, that will be the last question - let us wrap up questions and get on with business.

Mrs HENDERSON: I took the trouble to peruse the Notice Paper when Opposition members said that they had placed an item on today's Notice Paper, but I could not see it.

Mr Fred Tubby: I put it on the Notice Paper this morning, so it has not been printed yet.

Mrs HENDERSON: Is the member talking about tomorrow's Notice Paper? We do not sit tomorrow! I would be interested to know whether the foreshadowed motion will be the Opposition's main item on private business day next week. I have given an undertaking to meet with travel agents and I will be interested to receive a formal response from the Opposition spokesman for consumer affairs as I would find that very useful. As I indicated to the House yesterday, two or three different avenues could be taken to resolve this problem. I would feel very comforted if I knew that I had Opposition support for whichever of those paths I chose to take.