

Legislative Council

Thursday, 22 November 1990

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 2.30 pm, and read prayers.

BILLS (2) - ASSENT

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

1. Fisheries Adjustment Schemes Amendment Bill
2. Legal Practitioners Amendment Bill

PETITION - DUCK SHOOTING

Controlled Season Support

Hon P.G. Pandal presented a petition from 620 citizens of Western Australia supporting the continuation of controlled duck hunting.

[See paper No 770.]

PETITION - DUCK SHOOTING

Prohibition Legislation Support

Hon Fred McKenzie presented a petition bearing the signatures of 2 019 citizens of Western Australia urging Parliament not to declare a duck shooting season for 1991 and to legislate for the prohibition of any future duck shooting in this State.

[See paper No 771.]

MOTION - TOWED AGRICULTURAL IMPLEMENTS REGULATIONS

Disallowance

Order of the Day read for the resumption of debate from 21 November.

Debate adjourned, on motion by Hon Fred McKenzie.

STATE SUPPLY COMMISSION BILL

Committee

Resumed from 21 November. The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair; Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

Postponed clause 8: Membership of Commission -

Progress was reported after the clause had been partly considered.

Hon R.G. PIKE: I move -

Page 4, lines 19 and 20 - To delete "the chief executive officer of the Department;" and substitute the following -

appointed by the Minister; and

Page 4, line 22 - To delete "6" and substitute the following -

5

Page 4, lines 23 to 27 - To delete the lines and substitute the following -

(ii) one shall be nominated by the body known as the Confederation of Western Australian Industry (Incorporated);

(iii)

one shall be nominated by the body known as the Western Australian Chamber of Commerce and Industry (Incorporated); and

Page 4, line 28 - To delete "(iii)" and substitute the following -

(iv)

Page 4, lines 30 to 33 - To delete the lines and substitute the following -

- (2) If, within 30 days of being requested in writing to do so, a body referred to in subparagraph (ii), (iii) or (iv) of subsection (1) (b) has not

The first amendment listed is a very simple amendment. The Government proposes that the chairman shall be the chief executive officer of the department. The Opposition takes the very firm view that it would create a situation of an appeal by Caesar unto Caesar. That is singularly undesirable and, therefore, the Opposition proposes to remove the requirement for the chief executive officer to be the chairman.

The Opposition asks the Committee to support the amendments.

Hon KAY HALLAHAN: I indicated to the Committee last night that Hon Robert Pike and I had had some very constructive discussions on these amendments, mainly because we were concerned about the confusion that could be created for Committee members as a result of the number of amendments on the Notice Paper. It would have been necessary for me to move amendments and then for Hon Robert Pike to move amendments to my amendments and so on. From that discussion an arrangement was made whereby Hon Robert Pike has moved a series of amendments, based on agreements reached last evening, to which the Government will agree on the basis that it will be easier to deal with all the amendments in one hit. The Government will not oppose any of those amendments, which it is hoped will be agreed to when the Bill goes to another place.

Amendments put and passed.

Clause, as amended, put and passed.

Schedule 1 -

Hon R.G. PIKE: I move -

Page 15, line 8 - To delete ", other than the chairman,".

Page 15, line 24 - To delete ", other than the chairman,".

Page 15, line 26 - To delete ", other than the chairman,".

The chairman was previously provided for specifically. He now comes under the description of ordinary member in respect of powers, rights and responsibilities; therefore, it is necessary to delete these words.

Amendments put and passed.

Schedule, as amended, put and passed.

Schedules 2 and 3 put and passed.

Title put and passed.

Bill reported, with amendments.

TOTALISATOR AGENCY BOARD BETTING AMENDMENT BILL

Second Reading

Debate resumed from 18 October.

HON P.H. LOCKYER (Mining and Pastoral) [2.44 pm]: This Bill seeks to amend sections 26, 28 and 28A of the Totalisator Agency Board Betting Act 1960 in respect of the guaranteed allocation of funds by statutory provision and the percentage of funds that is guaranteed to be distributed to the various racing codes. The Opposition agrees generally with this Bill, but gives notice that during the Committee stage I will move an amendment to allow the two country racing codes - the Non-TAB Racing Association and the Country Racing Association - the opportunity to work out how their percentages will be allocated. We will also make it necessary for any alterations to this arrangement to be brought to Parliament for approval and not be enacted by regulation.

I commend the Minister for giving us the opportunity last night to put forward privately our view. I understood at that stage of the game that she accepted that view, and I hope that Hon Tom Stephens, in his maiden operation of looking after a Bill in this House, will in due course confirm that the Government will accept the amendment.

Hon Tom Stephens: I will speak to the Minister.

Hon P.H. LOCKYER: If members opposite do not accept it, we on this side will persuade them to accept it.

Hon Doug Wenn: Numbers!

Hon P.H. LOCKYER: It is not just numbers. I make it clear that the country racing people in both the TAB clubs and the non-TAB clubs were concerned enough to suggest some proposed amendments that we should consider. I took those amendments to the Minister as a courtesy so that her department could give me its views. While I accept those views, I do not necessarily agree with them.

I received a response from the Minister dated 21 November 1990, which states -

I refer to our discussion on 20 November regarding clause 5 of the Totalisator Agency Board Betting Amendment Bill 1990 and amendments proposed by the Country TAB Clubs' Racing Association and the Western Australian Turf Club.

You will have noted that both organisations have indicated the preferred option is that the distribution of TAB profit be determined by regulation.

The amendment proposed by the WATC would place the agreed distribution percentage presently paid to country clubs into the Act as is presently the case.

However, the amendment makes no provisions for any independent adjudication should the Country TAB Clubs' Racing Association and the Country Racing Association be unable to agree on how the TAB moneys are distributed. In these circumstances, a deadlock could result with no avenue of resolution provided for under legislation.

I accept that point of view. However, I have full confidence in both those associations. They share a common secretary, Mr Bill Bevan.

The PRESIDENT: Order! Members are carrying on audible conversations as though Hon Phil Lockyer were not here.

Hon P.H. LOCKYER: The Country TAB Clubs' Racing Association is chaired by Mr Peter Battle from Bunbury, and the Country Racing Association is chaired by Mr Dixie Solly from Albany. Those gentlemen agree with the proposed amendment that I have foreshadowed we will move in the Committee stage.

I have no doubt, my colleague in the other place has no doubt and the country racing people have no doubt that the two associations will have no problems dealing with the distribution of funds. A very professional body works closely with the organisations which are heavily relied on by racing clubs throughout Western Australia. They are the people best placed to deal with their percentages. The Opposition is concerned that alterations to legislation must come before Parliament as Bills and not be made by regulation.

From time to time regulations have a nasty habit of sneaking through. Although I have every confidence in the present Minister, a Minister may choose to sneak through a regulation on the very last day of Parliament's sitting. A regulation must lie on the Table for 14 days. However, following the last day's sitting of the spring session Parliament does not sit again until March. The time lapse between sittings, therefore, provides the opportunity to include alterations in the legislation. Once a regulation is in place, it is difficult to disallow it and problems can occur. If honourable members think Governments do not take that action, I can assure them they are wrong. A certain Minister for Education submitted certain regulations concerning the promotion of female teachers on the very last day of Parliament. By the time Parliament had an opportunity to disallow the regulations promotions were in place and the Opposition would have been unpopular had it proceeded to disallow the regulations. I can assure members we will not allow that to occur with this issue.

Hon B.L. Jones: Would you have wanted to disallow the regulations?

Hon P.H. LOCKYER: I am advised that in some cases the regulations needed some scrutiny because some of the Government's mates, including the Labor candidate who stood for the seat of Albany, were suddenly given extraordinary promotions. That situation is suspicious.

Hon B.L. Jones interjected.

Hon P.H. LOCKYER: I do not want to argue with Hon Beryl Jones. She can go back to sleep. I am happy to debate that matter at a later stage. Racing matters are far too technical for her; she should sit quietly by herself and let the experts consider racing matters. During the many times I have been to the track I have not seen her there. She should not interfere with what is very serious business.

This matter concerns the country racing clubs' share of the TAB turnover. Without enlarging on the matter, the Opposition will endeavour to amend that aspect of the Bill during the Committee stage which I hope will not proceed until I am able to consider the amendment. Out of courtesy, I gave the amendment to the Minister and his department last night to enable the Crown Law Department to study it. Honourable members should have the chance to consider the amendment prior to debating it.

Mr President, how do we address Hon Tom Stephens in his role as Parliamentary Secretary?

The PRESIDENT: Hon Tom Stephens.

Hon P.H. LOCKYER: I request that Hon Tom Stephens delay the Committee stage until we learn whether the Crown Law Department has approved our proposed amendment. Other than our dissatisfaction with clause 28, we see no problems with the Bill.

However, down the line problems may arise with the funds to be distributed from the TAB profits. Perhaps Hon Tom Stephens will inform members how the TAB profits for this financial year are progressing. I understand they are below projections. It is no secret that the racing industry in Western Australia is in some trouble and it may well be in more trouble if it is unable to earn sufficient profit. I respectfully suggest that Hon Tom Stephens should talk to his ministerial colleagues and inform them that the racing industry can be helped by the Government's not taxing it so mercilessly. If the tax burden on the racing industry were placed on any other business, it would drive it into bankruptcy. I have no doubt that a re-examination of the industry is needed in order to lift some of that burden. Legislation was introduced to lower the tax paid by bookmakers. The racing industry is an enormous industry under severe constrictions because of the increased taxes taken by Governments of all political persuasions, not the very least by the present Government. I have often warned that unless racing industry taxes are eased, the industry will be driven to the point where it will cease to exist. It is no secret that many racing clubs are in trouble and rationalisation must take place. I do not envy the person who must make the necessary recommendations; nonetheless I am convinced of the need for that action to be taken because of the present financial position of the industry. I realise that the barrel is not bottomless but the Government must consider ways of not taxing the industry so much. Cigarettes and alcohol seem to be victims of the first big snip for extra taxes; after that comes the betting industry. Racing trotting and greyhound codes are a fashionable source of extra taxes. I am keen to hear Hon Tom Stephens' comments about the matter.

The Opposition supports the Bill, but proposes amendments for section 28 which will be dealt with during the Committee stage.

HON MURRAY MONTGOMERY (South West) [3.08 pm]: As indicated by Hon Phil Lockyer, the Opposition supports the Bill, and the National Party will also support the amendments proposed by Hon Phil Lockyer. I spoke with Mr Peter Battle earlier today who indicated that the country TAB agencies and the non-TAB clubs can work together. If differences arise, they will sort them out between themselves. The matter is not something that should be done by regulation; amendments should come before Parliament. As I indicated in an earlier debate on another Bill, I do not go to the race track often. However, I had an entertaining time at Albany and Bunbury where the presidents of the two associations come from. If they believe they can work together and agree on a method of dividing the funds, we do not see any reason for opposing the Bill or for not agreeing with Hon Phil Lockyer's proposed amendment.

HON FRED McKENZIE (East Metropolitan) [3.09 pm]: I support the Bill. I did not anticipate any argument in relation to section 28, and I am a little perplexed at the proposition that appears to be forthcoming from the Opposition side that the distribution of funds not be dealt with by way of regulation. I would have thought it would make it much easier. I suppose the Government's alternative is to reject those amendments if it so desires. I am not aware of the consultation that has taken place with the Western Australian Turf

Club, the Western Australian Trotting Association and the Western Australian Greyhound Racing Association in respect of these matters, but I imagine there would have been quite extensive discussions.

The amendments passed here in 1988 were fairly extensive. In the short time since the debate commenced I have not had time to go through them and give them any real consideration, but I can well remember the debate which took place here. The amendments in that amending Bill were fairly extensive and covered a long period of time. At that time the debate centred on the proposed reduction the trotting industry was to receive because of the reduced turnover experienced by the Totalisator Agency Board for a long time. There had been quite a change, and at that time a formula was put in place to extend over many years, and that has been written into the Act.

I believe it was pointed out in the Minister's second reading speech that, because changes take place so rapidly, it would be far better to have these things dealt with by way of regulation. Of course, if we do not like those regulations they can be disallowed by either House, and we have seen many examples of that. That opportunity exists, so I cannot understand why there is so much concern. If we leave it as it is I do not see how the country racing clubs will benefit, because nothing has changed. The regulations afford an opportunity to change them in accordance with the circumstances that exist at a given time.

Hon P.H. Lockyer: That is not what the country racing clubs think.

Hon FRED McKENZIE: The regulations are all subject to ministerial approval; the amendment in the current proposal indicates that. I will be interested to hear the Opposition's views on this matter during the Committee stage.

One point I want to make about the racing industry - and Hon Philip Lockyer touched on this matter - is that there are too many country racing clubs. The cost of providing those facilities is very high by today's standards. I am talking here of country racing clubs near the metropolitan area, not those in remote areas. There is a case for clubs in remote areas to continue, and they are probably deserving of more assistance because we have to provide for people in those areas.

Hon P.H. Lockyer: They are not the ones who eat up the money, either.

Hon FRED McKENZIE: Did I hear Hon Philip Lockyer read out something about the club at Albany or Bunbury?

Hon P.H. Lockyer: No, I did not - I very carefully did not do that. I mentioned Bunbury because Mr Battle, who is the President of the Country TAB Clubs Racing Association, is the President of the Bunbury Racing Club. I am absolutely sure that I did not indicate any race club that should be dealt with. It is not my job to do that and I do not envy the person whose job it is.

Hon FRED McKENZIE: I agree; it might not be an enviable job but it should be tackled and the Government has elected to leave it to the racing industry itself, but no-one seems to want to bite the bullet. It is very necessary, because in the eastern districts there are race clubs at Toodyay, Northam, York and Beverley - four within a very small area. There is no need to have all of those clubs, and there is a cost associated with maintaining them all. These are the days of motor vehicles, not horses and carts, and there is a need for rationalisation in order to ensure that sufficient funds are available to the racing industry to make it viable. There is no doubt that this is one area where rationalisation should occur.

Hon Murray Montgomery: Are you saying those clubs in that area ought to be rationalised?

Hon FRED McKENZIE: Yes. I was on the Honorary Royal Commission into Racing and Trotting chaired by Hon Norman Baxter a few years ago. I know Hon Norman Baxter did not favour that rationalisation, naturally, because he represented a country area that centred on those four racing clubs. However, my personal view is that only two of those four racing clubs should be operating and the money saved from not having the other two courses could be put into the industry generally for the benefit of the trainers and owners of horses. The industry must take that suggestion on board. Those clubs have been there since the horse and buggy days, but those days have gone. Members must understand that the cost of the grandstands and facilities and the maintenance of the courses is very high. With the exception of Beverley, those courses are grassed, and members can imagine the expense involved in their upkeep. I do not know how many race meetings those race clubs hold each

year. They do not hold them every week; rather, they have a season. During the summer months the races centre on Bunbury, Pinjarra and similar areas, and in the winter months they are held at Northam, Toodyay, York and Beverley.

I think the industry itself, and the Western Australian Turf Club, have probably been too lenient in allowing that to continue. In my view those clubs just do not warrant it. If they were to rely on the local people in those towns to attend the racecourses, there would not be any meetings. The fact is that nearly all of the horses - almost 100 per cent of them - come from the metropolitan area, and I would guess that 90 per cent of the patrons on course are from the metropolitan area. The trainers and owners find it quite expensive to go to those areas and they would prefer to have more race meetings closer to the training track facilities.

Hon D.J. Wordsworth: They would have to hold them during the week because the tracks in Perth have full programs during the weekends.

Hon FRED McKENZIE: They have a meeting on Saturdays and occasionally they have a midweek meeting. They do not have meetings every week in the metropolitan area, but in provincial Victoria or New South Wales training facilities are attached to a number of courses. To talk about the four racecourses I have already mentioned, how many trainers are domiciled at Toodyay? Very few. How many at Northam? Very few. I am sure I could count them on the fingers of one hand. In York and Beverley I doubt whether one trainer of horses uses those courses, although I stand to be corrected on that.

Hon D.J. Wordsworth: Byford has become a major training area.

Hon FRED McKENZIE: Byford has a trotting training track and there is a group of trotting trainers in and around Byford, but there is not a group of trainers at Northam, York, Beverley or Toodyay. Albany is different as it is a little further out, as are Kalgoorlie, Geraldton, Bunbury, Pinjarra and other areas where there are trainers.

Hon D.J. Wordsworth: What about Esperance?

Hon FRED McKENZIE: Hon David Wordsworth is more familiar with that area than am I, but they are pretty remote centres so they have training tracks there. I am talking about the near metropolitan area. I will be interested to hear what the Opposition proposes during the Committee stage in relation to this clause of the Bill, because I do not know how it proposes to help these country racing clubs.

Members should bear in mind the fact that the Turf Club has been providing stewards from Perth to country areas at its own cost.

Hon P.H. Lockyer: It still does.

Hon FRED McKENZIE: There we have it; country clubs are not expected to meet these costs as they are provided by the Western Australian Turf Club. The Parliamentary Secretary will indicate whether the Turf Club, the Trotting Association and the Greyhound Association have been consulted on this issue. If they have, and if members decide to interfere with a decision of the parent bodies, so be it; however, in the long run it may make things difficult for country clubs. That should be borne in mind by members. I shall certainly watch the situation closely.

Another provision in the Bill relates to radio station 6PR. Section 26 of the Act was used to purchase the station, which is the only radio broadcast station to cover racing in Western Australia. The Trotting Association and the Turf Club initially purchased 6PR to ensure that those who were interested in the racing industry were assured of receiving race broadcasts. However, complaints galore have been received from punters regarding a lack of broadcasts from the station - I have complained about this matter from time to time. A lot of the blame is directed at the TAB, which owns the station, but, in the main, this lack of broadcasts has been caused by the Australian Broadcasting Tribunal, over which the State has no control. One difficulty is that racing may begin at midday in the Eastern States, which is 9.00 am in Western Australia. The Eastern States broadcast runs from midday to 10.00 pm in the east as an extensive coverage is provided to Sydney, Melbourne and Adelaide, as members would know if they have visited those places. The problem is that the broadcast would start at 9.00 am in Perth and finish late in the evening, and the tribunal believed that so much racing did not allow enough time for other programs. Therefore, it put the clamps on 6PR; this was not done by the TAB. Whenever members receive complaints about this, that point should be made.

We are served fairly poorly for race broadcasts in Western Australia. The Sky Channel has improved the situation but this service is not available in one's home and one has to go to the TAB to take advantage of it. Often no race broadcast is provided in the middle of the week, or not before midday, apart from the occasional metropolitan meeting.

Some questions were raised about the sale of 6PR by the Trotting Association to the TAB, but it is essential that the TAB own a broadcasting station. Hon Doug Wenn and other members from Bunbury would realise that that area did not have a race broadcast service for some time as it was difficult for people in that area to pick up 6PR or the regional network. Bunbury is a large regional centre and a demand was placed on the TAB to provide a broadcast service but this could not be provided at a viable cost.

Hon Doug Wenn: The service is being provided now.

Hon FRED McKENZIE: In the metropolitan area 70 per cent of the population are denied race broadcasts because the ABC does not broadcast to the metropolitan area, except on Saturdays.

Hon D.J. Wordsworth: It got into serious trouble in Kalgoorlie.

Hon FRED McKENZIE: What happened?

Hon D.J. Wordsworth: A race was broadcast a little late.

Hon Max Evans: This is going back a while.

Hon FRED McKENZIE: I am aware of that.

Hon P.H. Lockyer: The only thing you are upset about is that you did not have anything on it!

Hon FRED McKENZIE: I am afraid I have never been able to put my money on after the horse has passed the post.

Hon P.H. Lockyer: They paid the penalty.

Hon FRED McKENZIE: The TAB should own Radio 6PR even though certain controversy surrounded the purchase; it was believed by some members of the Liberal Party that it was likely to become a Government broadcast station. However, if members think it through, people have been denied race broadcasts in the past because people who owned broadcast stations demanded a fee which made the broadcast unviable.

I support the legislation and I will take an interest in the Opposition's amendment. I would like to know how it will benefit the country racing clubs. Let the House see the amendment, and it can decide. The Western Australian Turf Club has a responsibility to control racing in Western Australia -

Hon P.H. Lockyer: The country racing body and the Turf Club support the amendment.

Hon FRED McKENZIE: That is very interesting.

Hon P.H. Lockyer: In fact, they worded the amendment which I gave to Hon Tom Stephens to check.

Hon FRED McKENZIE: If that is the case, I should think the Government would accept it.

Hon P.H. Lockyer: I hope it does.

Hon FRED McKENZIE: If it is supported by the Turf Club, I do not know why the matter needs further discussion. I hope the situation can be explained.

HON TOM STEPHENS (Mining and Pastoral - Parliamentary Secretary) [3.17 pm]: I am pleased to rise for the first time to handle a Bill in this House in my new role as the Parliamentary Secretary assisting the Minister for Racing and Gaming.

Hon Reg Davies: We are pleased to have you.

Hon TOM STEPHENS: I thank Hon Reg Davies.

I had hoped that this legislation would have a smooth passage in that the second reading speech, delivered by somebody else, should have persuaded members to agree to the Bill. Unfortunately, that is not the case. Since we have been in Government there have been a small number of occasions in this House in which the front bench has called on the back

bench to support it in handling legislation. Sometimes I have been called on when it was known that a Bill would be lost and I have been allowed to get stuck in even though it was known the Bill would be defeated. On this occasion I am being asked to use my powers of persuasion to encourage members opposite not to adopt a course of action outlined by Hon Phil Lockyer.

The process of consultation in which the Government has been involved in working through this Bill has been long and detailed. I have learnt of the hard work done by the Minister, Hon Pam Beggs, to ensure that the racing codes had an opportunity to indicate what they wanted to see in the Bill. In paying tribute to the Minister for Racing and Gaming for the hard work she has put into this legislation and finally getting it into this House, members have also acknowledged the hard work of the officers within her office and in the Office of Racing and Gaming. They have come up with a proposal that reflects the wishes of the industry.

Former speakers have indicated their support for the Bill. However, apparently one clause of the Bill causes difficulty for the Opposition. Obviously, we will deal with it in detail in the Committee stage. It relates to percentages that will flow from the Totalisator Agency Board to the WA Turf Club and the Country Racing Association. I have been informed by the Minister's officers that the Country Racing Association wants the percentage to be determined by regulation; that is its preferred option. That understanding is now at odds with Hon Phil Lockyer's understanding of the situation.

Hon P.H. Lockyer: I have changed its mind.

Hon TOM STEPHENS: That is my point. The Government introduced this legislation with the agreement of the Country Racing Association. However, at some point that association has been persuaded to adopt a different position. Indeed, Hon Phil Lockyer was kind enough to make available to me a letter that he received from his colleagues which indicated the view of the Western Australian Turf Club. It is dated 16 November and states -

We are very anxious that the Government amendment in respect of Section 28 be approved viz. to provide for the distribution of TAB profits as between metropolitan and country clubs, and amongst country clubs, to be determined by regulation.

However, if you do not support this view, would you please consider supporting an amendment in the following terms:

The WA Turf Club had the opportunity to express its view in that letter. It is a clear view, and I show it now to Hon Fred McKenzie. As members can see from the second paragraph, the Turf Club had the opportunity of considering the issues and its preferred position was that the funds be distributed by way of regulation. However, it appears that around that date, discussions were taking place between the Opposition parties and the two codes, and arguments were presented to them that the Opposition was not prepared to accept the method for formulating the distribution of funds which would be then gazetted by regulation and was insisting on a new course of action. In the face of that insistence by the Opposition, the codes are now saying that if the Opposition is going down that path, they should reconsider their position and have asked it to use the amendment presented in the letter.

Hon Phil Lockyer has been kind to me on the occasion of my first involvement with the handling of a Bill. He has been candid about the Opposition's consideration of the Bill and I thank him for that. I appreciate that it may not always be the case as I become more seasoned.

Hon P.H. Lockyer: I will always be mindful of you. I have had pity on you over the years.

Hon TOM STEPHENS: However, last night, when discussing this matter, arguments were put forward by Hon Phil Lockyer's colleagues which indicated some disquiet about the notion of a regulation. That disquiet is misplaced. The example referred to by Hon Phil Lockyer is not a useful example when considering this Bill. He referred to the way officers of the Ministry of Education are promoted by way of regulation and he explained that if someone wanted to do something about it, he or she would have to try to have the regulations disallowed. Regulations have to be disallowed within 15 sitting days of Parliament. Because of the legalities, nothing can be done about what happens between the time of the gazettal of a regulation and the time it is disallowed. However, this is a different situation. The industry has proposed that the formula be changed. The Minister undertook, and indicated again last

night, to the codes that the only way she would proceed would be with the codes' agreeing to the legislation and the formula for distribution of funds.

Hon P.H. Lockyer: With respect, we have a good Minister now. What happens when we get a bad Minister? At the present time we have a Minister who is very good with the industry, but that may not always be the case.

Hon TOM STEPHENS: The Minister would, by regulation, lay down the new formula agreed to by the codes for the distribution of funds, and if people within the codes disagreed with that, they would approach their parliamentarians to do something about it. Not only would they approach people like Hon Fred McKenzie, who would be prepared to argue their case in our party, but also they would come to members opposite. They would listen to the codes, and, if those people within the codes disagreed with the Government about the new regulations, the Opposition could use its numbers in this House to disallow the regulations. At that point, the regulations having been disallowed, the distribution of funds would proceed under the previously existing arrangement. Therefore, before the lapsing of the 15 day period, the Opposition would have the opportunity of getting rid of the new regulations, and the old regulations would apply. For a very short period - possibly a few months - funds would be distributed under this hypothetical "bad Minister" under the new arrangement with which some people disagree.

Hon N.F. Moore: When we rejected regulations, Mr Pearce regazetted them.

Hon TOM STEPHENS: I ask members to keep in mind that that process could not continue indefinitely and a Government Minister would be silly to allow to continue that sort of dispute where we are committed to having these matters determined by the codes.

Hon Phil Lockyer knows that I am a hired gun in this matter. My seminary training did not equip me with great skills to operate at the racetrack or for knowing enormous amounts about the TAB.

Hon P.H. Lockyer: Some of the most regular racegoers are clergymen. I know of one Catholic clergyman who has more than a passing interest in racing.

Hon TOM STEPHENS: I understand that. I have seen a few Roman collars at racetracks when I have watched the racing on television. However, I do not know a great deal about it; I am simply the hired gun relaying to this House the viewpoint of the Minister and, therefore, the Government. In that context, the Government is of the view that the Opposition would be foolish to persevere with the amendment which Hon Phil Lockyer has foreshadowed. It is also of the view that it is a disservice to the racing codes to have this formula written into the legislation. The truth is that it is difficult to get legislation into and through this House. The process is complex and the Bill, having been worked through by the Parliamentary Counsel process and after consultation with the Minister and ministerial staff, must go through the Labor Party's committee system, through Caucus, and then to Cabinet. Cabinet has to give it sufficient rating to justify its inclusion on the parliamentary program for any given session. A problem will occur should the circumstance arise where an alteration is required to the formula for the distribution of funds to racing and trotting, because it is not easy to have an amendment to change the formula dealt with by the Parliament quickly. I hope members recognise the wisdom of adopting the course of action which will allow for the formula to be determined by regulation instead of inserting a section in the Act defining the method of the distribution of funds.

The first substantive clause of the Bill recognises some of the inflexibility of the operation of the TAB Act and deletes some of that inflexibility. If we adopt the strategy proposed by Hon Phil Lockyer in the second part of the Bill there will be greater inflexibility than is necessary. The Government is opposed to the amendment foreshadowed by Hon Phil Lockyer. I hope I can persuade members opposite not to vote with Hon Phil Lockyer. If I am not successful I make it clear that it will be on the Opposition's head if the proposed amendment is carried. A message would go back to the lower House, and it is my understanding that if this House insists on sending a message of that sort the Government would reluctantly accept it, and the emphasis is on the word "reluctantly". I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair; Hon Tom Stephens (Parliamentary Secretary) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement -

Hon P.H. LOCKYER: I move -

Page 2, line 1 - To insert after "Section 5(b)" the following -
and (c)

This is purely a mechanical procedure because I have foreshadowed an amendment to clause 5. If the amendment is passed it will be necessary for these words to be included in this clause. If by way of some amazing outcome Hon Tom Stephens is able to persuade some of my colleagues or me to vote with him it will be necessary to recommit the Bill and delete the words I am proposing to insert. However, I have sufficient confidence that my proposed amendment will be passed.

Hon TOM STEPHENS: I will not argue further about this amendment, but clearly the Government does not want it inserted in the Bill. I am hopeful that I will be able to persuade members opposite of the lack of wisdom in the course of action being taken by Hon Phil Lockyer. If I am successful we will recommit the Bill and, at that point, delete the words which Hon Phil Lockyer has moved to insert. Unless I can be persuaded otherwise I propose to adopt that course of action.

The DEPUTY CHAIRMAN (Hon Doug Wenn): If we accept the insertion of these words the Bill would have to be recommitted.

Hon P.H. Lockyer: I have already said that.

The DEPUTY CHAIRMAN: I am making sure that the Chamber is aware of what course of action would need to be taken.

Hon TOM STEPHENS: The alternative action would be to defer consideration of this clause.

Hon P.H. LOCKYER: With respect, I do not believe that is the appropriate course of action to take. Standing Orders make it clear that we should proceed down a certain path and we should deal with it now. If Hon Tom Stephens is successful in persuading my colleagues to vote with him I will be the first person to move that the Bill be recommitted.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 3 and 4 put and passed.

Clause 5: Section 28 amended -

Hon P.H. LOCKYER: I accept the comments made by Hon Tom Stephens during his reply to the second reading debate, but I do not agree with him. Although regulations may be acceptable, the Opposition is of the opinion that the Parliament should have the final say. The Parliament should have the opportunity to alter the percentages.

I am of the view that neither the Country TAB Clubs Racing Association nor the Country Racing Association will have a problem in their distribution areas. If there is a problem at any stage of the game - and I doubt that there will be - I give an undertaking that the Government can bring this legislation back and we will pass it as quickly as it likes. Such legislation will not require much consideration. The Government is bound to say it has to go through all the Caucus committees and Cabinet to find a priority level. However, if things are bad enough and the Government wants us to look at the associations out there, it will have the legislation back before the Parliament like a rocket. It is exactly the same argument as the Government put forward about the regulations, which finally must come here anyway. I do not accept that.

It is the philosophy of the Liberal Party and the National Party that it is not good business to have alterations of this kind made by regulation because they are far too important and the

Parliament should have its say about them; that is why it is here. The Government's alternative argument will be that we have an opportunity to delete such matters anyway. Not only do I oppose that argument but also I do not accept it. For that reason, I move -

Page 3, lines 6 to 18 - To delete paragraph (b) and substitute the following paragraph -

(b) by repealing subsection (4) and substituting the following subsection -

"(4) the Club shall, from any moneys received by it from the Board under subsection (2) -

(a) distribute 28.09 per cent of those moneys among racing clubs registered with it conducting races outside the Metropolitan Area in such amounts, or in accordance with such criteria, as are determined by the Country TAB Clubs' Racing Association and the Country Racing Association; and

(b) retain the balance of those moneys for its own use."; and

(c) by inserting after subsection (5) the following subsection -

"(6) In subsections (4) and (5) "Metropolitan Area" means the part of the State that comprises the region described in the Third Schedule to the *Metropolitan Region Town Planning Scheme Act 1959*."

Hon Tom Stephens quoted from a letter from the Western Australian Turf Club. He was quite right when he said that we have had consultation with both the Turf Club and the Country Racing Association. We made our philosophy quite clear to them. We explained that we have argued that the percentage should be set by the Parliament rather than by regulation. They agreed with our view and both suggested that we should enshrine that in the legislation by moving an appropriate amendment. That is why last night I informed the Minister, Hon Tom Stephens and the officers that we would accept the amendment from the Western Australian Turf Club. I thank Hon Tom Stephens for providing an opportunity for us to take away the amendment to tidy it up. The result of that is the amendment I have just moved.

The Opposition believes we should enshrine the figure of 28.09 per cent in stone, to use the honourable member's own words. Distribution of that money should be left to the two country racing associations. We are of the strong view that no problems will arise with those associations in regard to that distribution. Should an alteration be required, it should come back before the Parliament. I respect the comments made by Hon Fred McKenzie about racing because he is genuine and has knowledge of the area and I am sure he will agree that once the Turf Club and the racing association are happy we should accept things too. We are entitled to our view about regulations.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon P.H. LOCKYER: I mean no disrespect to, nor do I indicate any distrust of Ministers past, present or future; however, it is the Opposition's strong view that matters as important as this should not be altered by regulation. Members of both Houses of Parliament must have the opportunity to discuss any alterations. I reiterate that if there is a need for urgency we will give it absolute priority through either House of Parliament, so the Government will not have a problem there. The same would apply to regulations in the case of Parliament's not sitting. I do not foresee those problems, and neither does the Turf Club. I urge members of this Chamber to support the amendment.

Hon FRED MCKENZIE: I spoke during the second reading debate on this issue. Hon Phil Lockyer indicated that the Turf Club supported this amendment. Since that time I have had an opportunity to read correspondence from the Turf Club which clearly indicated that it was not its preferred position. That is how I read the letter, and if Hon Phil Lockyer wants to disagree, let him say so. I concede that to some degree it is Tweedledum and Tweedledee, but it is not the preferred position of the parent body. The Turf Club is not foolish. It realises that it wants an amendment, and although it really prefers the position in the amending Bill it is prepared to accept the amendment now before us.

I do not know why we are so excited about this or why there is so much suspicion. I am aware that country clubs do view suspiciously the activities of the Turf Club because they are afraid that there may be a move towards rationalisation. A difficulty in the racing industry has been insufficient funds to keep it viable. The Turf Club has been rather weak - that is how I view it personally - because it has not been prepared to tackle the problem of rationalisation, which I believe is absolutely necessary. Far be it from the Government to direct the Turf Club - it has let it drift along - but the Government has had to cop a lot of criticism in doing that. There has been an outcry about the provision of inadequate funds to the racing and trotting industries in this State. The Turf Club wrongly accused the Government of taking from and putting into the Government coffers the benefits of an increased tax that was imposed some years ago. I have forgotten when, but it was during the Burke Government. In reality no money was taken from the racing industry; it was taken from the punters, and now it has been returned to the racing industry. The punters are still paying it. I am one of them, as is Hon Phil Lockyer. He may be an owner as well, but I am smarting about the deceit that we were faced with at that time. The Turf Club has lacked the intestinal fortitude to bring about some rationalisation in the racing industry and has expected the Government to do the unpleasant work. It is about time the Western Australian Turf Club dealt with the problems of the industry and did not expect the Government to do its work.

The current Act provides for the distribution of funds to be limited to 20 per cent. The letter I read to the Committee indicated that the Turf Club was distributing 28.09 per cent. Therefore, it has been generous or weak, depending on the way one looks at it, in giving to the country clubs an additional 8.09 per cent of funds for distribution. The Turf Club did not have to do that and it has been assisting country race clubs.

If Hon Phil Lockyer's amendment is not accepted in another place - I suggest for goodwill purposes it will accept it - the Turf Club could get tough with the country clubs and revert to a distribution of 20 per cent of its funds, as provided for in the Act. It would be a more flexible and far better working arrangement to allow the distribution percentage to be calculated by way of regulation. It has already been demonstrated that the provision in the Act is not being adhered to. Effectively the funds are being distributed by way of regulation and obviously the country clubs are happy because they are receiving 8.09 per cent more than they are entitled to under the provisions of the Act. It is, in effect, a de facto regulation.

Hon T.G. BUTLER: Hon Fred McKenzie raised a couple of questions which are relevant to the Government's position. He raised the question of suspicion by the Country Racing Association and the Country TAB Clubs Racing Association of the Western Australian Turf Club. I guess they can be forgiven for being suspicious.

The situation is that racing in the country is badly organised and is in need of rationalisation.

Hon P.H. Lockyer: Badly organised?

Hon T.G. BUTLER: It is badly organised because it lacks rationalisation. I refer members to clubs such as Northam, York, Toodyay, Beverley and Narrogin. I do not mean that their organisation of specific race days is bad - that is a totally different thing. Some of the happiest days of my life have been spent at country race meetings, which are better than city race meetings. The rationalisation of the clubs can occur only with amendments to the principal Act as outlined by the Government. If we were to decide to distribute 28.09 per cent of the money referred to, the chances are that with an increase in betting activity it would increase to a larger amount of money than originally anticipated. That situation occurred in relation to the 1.25 per cent outlined in section 26 of the Act. No-one estimated that that fund would grow to \$6 million. I do not have the figure from which 28.09 per cent will be distributed to country clubs, but with increased betting activity the figure will increase rapidly. As a result the clubs will continue without any rationalisation, in order to cut costs, or without any interest in the overall racing industry. I do not doubt that the Turf Club is viewed with suspicion by the Country Racing Association and the Country TAB Clubs Racing Association, but it is probably well founded. I will not argue about that. Nevertheless, this is not the way to handle the situation.

Hon Phil Lockyer admits that the present Minister for Racing and Gaming is a good Minister, but asked what would happen if we had a bad Minister. That is likely to occur only in the unlikely event of a change in Government. If we want rationalisation in the racing industry we should accept the Government's amendment to the principal Act.

Hon P.H. LOCKYER: I will deal first with Hon Fred McKenzie's comments. I do not intend to engage in a witch-hunt or a criticism of the Western Australian Turf Club. In my view the committee does the best job it can and I am encouraged by recent events, including a change of leadership of the committee and the subsequent election to the committee of some stalwarts of the racing industry like Wilson Tuckey. It is very good for racing.

I have carefully not engaged in comments about rationalising the racing industry because I am not qualified to say, if there is to be any rationalisation, which clubs should be involved. Quite frankly, politicians making that sort of speculation are entering an area which will become uncomfortable for them.

Hon T.G. Butler: I did not suggest which clubs - I said the country clubs needed rationalisation and I quoted an example of bad organisation.

Hon P.H. LOCKYER: It is important that this be clarified. Certainly by implication Hon Tom Butler mentioned a certain number of clubs. It is fraught with danger for us to be looking at that. It really has nothing to do with the amendment we are debating. I want it made clear to Hon Fred McKenzie that the Opposition did not exert any undue pressure on the country racing associations or the Western Australian Turf Club. The Opposition simply explained its philosophy to them; that is, that these matters should not be handled by regulation but by the Parliament. In the same way I could say to Hon Tom Butler that I do not agree with compulsory unionism. He may say his philosophy is to agree with compulsory unionism.

Hon T.G. Butler: I do not agree with compulsory unionism.

Hon P.H. LOCKYER: The Opposition merely explained its philosophy to the Western Australian Turf Club; no pressure was involved. The Turf Club could have pressured the Opposition but it courteously suggested this amendment by way of a letter - I had no problem with showing the Minister and the member handling the Bill the letter. The Opposition was happy to agree with the amendment. We may have to vote on the amendment if it comes to that; however, we believe that in reaching this agreement with the racing associations we have taken the appropriate step.

Hon TOM STEPHENS: This is the last opportunity in which I will try to persuade members opposite to desist from the course of action Hon Phil Lockyer proposes in this amendment, which is fraught with inconsistencies. He has argued that the racing codes should make their own decisions and that they should be self-regulating. He believes that they should be able to determine their own destinies and the way in which funds are distributed. Hon Phil Lockyer has asked that this place pass this amendment which will, in my view, write in stone in the Statute the current formula; that is, if the codes want to try to change the arrangements rather than being able to determine the issue for themselves, they will have to come to the Parliament for it to amend the Act.

Hon P.H. Lockyer: That is for the regulations.

Hon TOM STEPHENS: The Government is implementing the Opposition's philosophy. I hope that those people involved in the racing codes who read this debate will appreciate what was done in consideration of this amendment. The Government has tried to take the lead by giving the racing codes the opportunity for flexibility when distributing funds. The Government would prefer that situation rather than needing approval of the entire Parliament to change the formula. Hon Phil Lockyer's proposal would mean a Bill would have to be introduced to change the Act instead of having the racing codes come to an agreement and inform the Minister of that agreement, and the Minister then approving it. With the Government's proposal, the Minister would not be able to strike a deal without the two racing codes' approval to do so; and changes would then still have to be made by way of regulation, which would require a disallowance of regulations motion in the Parliament only if it were not generally accepted.

The Government has adopted the philosophy of Hon Phil Lockyer by allowing the codes to be self-regulating. The Government is trying to leave these decisions in the hands of the people involved in the racing codes. The points made by Hon Tom Butler need further amplification because Hon Phil Lockyer was trying to misconstrue them. Hon Tom Butler said that the Government was not using the power of regulation for the distribution of funds and it would not force rationalisation on the codes. That is not the Government's intention; it is not the intention of the Minister.

Hon P.H. Lockyer: It has nothing to do with the Bill either.

Hon TOM STEPHENS: I do not want Hon Tom Butler's remarks to be misconstrued, because he knows that the Government has no intention of forcing rationalisation on the industry.

Hon P.H. Lockyer: I take that point.

Hon TOM STEPHENS: I wanted to make sure that it was clear. The Government is simply attempting to allow the codes to agree on the reconsideration of funds and to present the new regulations to the Parliament. I am sorry that some of my friends opposite are not here to be persuaded by my remarks. However, it is my first attempt at handling a Bill and I am asking some of my friends opposite to make my day.

Hon Derrick Tomlinson: No, you make our day.

Hon TOM STEPHENS: I am hoping that some members opposite will be persuaded by my arguments and will come across and vote with the Government.

Hon Derrick Tomlinson: The way, the truth and the light!

Hon P.H. Lockyer: I am looking for the collection plate.

Hon TOM STEPHENS: The Government wants to leave decision making in the hands of the codes. Hon Fred McKenzie pointed out that we virtually have a process of self-regulation anyway because the Statute provides for cast iron percentages. Anyone who ignores the current formula in the Statute is avoiding the consideration the Act gives to the percentage distribution of funds altogether. I am sure that lawyers would be horrified to know that this Statute percentage already exists and is being ignored. We should not be leaving this fixed percentage in the Statute because it will mean that the racing codes could be tempted again to ignore the legislation. Instead, we should include such percentages in the regulations and allow the Government to respond to the needs of the industry for percentage distribution by regulation. I oppose the amendment and I hope members opposite will vote against it.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Before the tellers tell I cast my vote with the Noes.

Division resulted as follows -

Ayes (14)

Hon J.N. Caldwell
Hon George Cash
Hon Reg Davies
Hon Max Evans
Hon Peter Foss

Hon Barry House
Hon P.H. Lockyer
Hon Murray Montgomery
Hon N.F. Moore
Hon Muriel Patterson

Hon P.G. Pandal
Hon R.G. Pike
Hon Derrick Tomlinson
Hon W.N. Stretch
(Teller)

Noes (13)

Hon J.M. Berinson
Hon T.G. Butler
Hon Cheryl Davenport
Hon John Halden
Hon Kay Hallahan

Hon Tom Helm
Hon B.L. Jones
Hon Garry Kelly
Hon Sam Piantadosi
Hon Tom Stephens

Hon Bob Thomas
Hon Doug Wenn
Hon Fred McKenzie
(Teller)

Pairs

Hon Margaret McAleer
Hon D.J. Wordsworth
Hon E.J. Charlton

Hon J.M. Brown
Hon Graham Edwards
Hon Mark Nevill

Amendment thus passed.

Clause, as amended, put and passed.

Clause 6 put and passed.

Clause 7: Validation -

Hon P.H. LOCKYER: Following the success of the previous amendments, this clause is unnecessary. I have been advised by the Crown Law Department that the amendment I have circulated can be achieved by members voting against the clause.

Clause put and negatived.

Title -

Hon P.H. LOCKYER: During my contribution to the second reading debate I implied that Hon Beryl Jones did not know anything about racing. I was reliably informed during the suspension for afternoon tea that for many years she has attended meetings of various racing codes. I apologise for not recognising the member's knowledge of the subject. I am further informed that at times she was a feared punter among the bookmakers and that her knowledge is extensive. I hope the member will accept my apology.

Title put and passed.

Bill reported, with amendments.

APPROPRIATION (CONSOLIDATED REVENUE FUND) BILL*Receipt and First Reading*

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Leader of the House) [4.47 pm]: I move -

That the Bill be now read a second time.

The Bill seeks appropriation of the sums required for the services of the current financial year as detailed in the Estimates. It also makes provision for the grant of Supply to complete requirements for 1989-90.

Included in the Estimates of Expenditure of \$5 072.5 million is an amount of \$620.187 million permanently appropriated under Special Acts, leaving an amount of \$4 452.313 million which is to be appropriated in a manner shown in a schedule to the Bill.

Supply of \$2 400 million has already been granted under the Supply Act 1990. Hence, further Supply of \$2 052.313 million has been provided for in the Bill.

In addition to authorising the provision of funds for the current year, the Bill seeks ratification of the amounts spent during 1989-90 in excess of the estimates for that year. Details of these excesses are given in the relevant schedule to the Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

CORPORATIONS (WESTERN AUSTRALIA) BILL*Introduction and First Reading*

Bill introduced, on motion by Hon J.M. Berinson (Attorney General), and read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [4.50 pm]: I move -

That the Bill be now read a second time.

Members will be aware that at a meeting of corporate affairs Ministers from the Commonwealth, all States and the Northern Territory in June 1990, agreement was reached for the Commonwealth to take responsibility for companies and securities and futures regulation throughout Australia. The Bill before the House is to give legislative effect in Western Australia to this agreement.

The Bill is drafted on the basis of model legislation which is presently, or about to be put, before all State Parliaments in order to implement the new national scheme from 1 January

1991. Before I provide more detail on the proposed operation of the Bill, I shall briefly outline to members how regulation of company law has evolved to this stage.

During the 1960s each State in Australia legislated for and administered its own company laws without any significant effort to achieve uniformity, either of the laws themselves or of their administration. With increasing interstate trade and commerce, a number of States recognised the desirability of uniform laws. This led to some States, including Western Australia, entering an interstate agreement which sought to establish greater uniformity of administration of company laws. This agreement was called the Interstate Corporate Affairs Commission Agreement.

In response to recommendations by the Rae Senate Select Committee on securities and exchange, which concluded in 1974 that a national approach was needed for the effective regulation of companies and securities laws, the Commonwealth Government planned to introduce a National Companies and Securities Corporations Bill. The Commonwealth's approach was to establish unilaterally a National Companies and Securities Commission supported by Commonwealth legislation and Commonwealth administration. Further negotiations were held between the Commonwealth and the States with a view to establishing a cooperative scheme for the regulation of the companies and securities markets. On 22 December 1978 a formal agreement was signed by the Commonwealth and all the States which established the existing cooperative scheme. The Northern Territory joined the scheme in 1986. The features of this cooperative scheme are as follows -

- a Ministerial Council with overall responsibility for the law;

- a National Companies and Securities Commission with responsibility for uniform administration of the legislation;

- a commonwealth companies and securities law which applies in the Australian Capital Territory. The substantive provisions of this Commonwealth law are then applied by each of the States as State laws, with the States making such changes only to the Commonwealth law as are required to reflect local legal and administrative requirements; and

- each State provides its own administrative department or commission to administer this uniform law, with the National Companies and Securities Commission having responsibility to ensure uniform administration of the scheme legislation.

Laws to implement the cooperative companies and securities scheme in Western Australia were proclaimed to operate from 1 July 1982. The cooperative scheme attracted criticism from business. For example, the Confederation of Australian Industry complained in 1985 to the Commonwealth Government that the scheme undermined ministerial responsibility, retarded legislative reform and resulted in lowest common denominator proposals.

In Parliament Senators Durack, Hill and Messner complained that the scheme required the Commonwealth Parliament to act as a "rubber stamp" in the legislative process. In response the Senate resolved in April 1986 that its Standing Committee on Constitutional and Legal Affairs should review the role of Parliament in relation to the national companies scheme. That committee reported in April 1987.

Although the committee concluded that the cooperative scheme had worked remarkably well, it also found that there were major problems inherent in the scheme. These problems were embodied in three main areas of criticism, namely -

- (1) a lack of ministerial responsibility and accountability to Parliament, there being no single Minister or Government accepting responsibility for any given decision;
- (2) administrative duplication and general inefficiency due to the distribution of functions between the National Companies and Securities Commission and the various State and Territory corporate affairs departments; and
- (3) a tendency for the scheme to produce "lowest common denominator decision-making".

To overcome these perceived weaknesses the committee recommended that the Commonwealth Parliament should enact comprehensive legislation covering the field which is currently regulated by the cooperative scheme. In late 1987 the then Commonwealth

Attorney General, Mr Lionel Bowen, announced that he would adopt the Senate committee's recommendations and proceed with unilateral Commonwealth legislation to set up an Australian Securities Commission and enact a Corporations Act to cover the entire area of companies and securities laws. This would be to the exclusion of the States. Mr Bowen sought the support of the States, and Queensland and Victoria agreed to refer their powers to legislate with respect to companies and securities law to the Commonwealth. The Northern Territory and Tasmanian Governments indicated that they were prepared to consider referral of powers, while Western Australia, South Australia and New South Wales indicated that they would challenge the validity of the proposed Commonwealth legislation in the High Court.

In May 1988 Mr Bowen introduced a package of 16 Bills into the House of Representatives to give effect to unilateral Commonwealth legislation. After a period of public exposure the Bills were passed by the House of Representatives on 28 September 1988. When the Bills were introduced into the Senate on 14 October 1988 a Joint Select Committee was formed to inquire into and report on the adequacy of the Bills. That committee presented its report on 13 April 1989 and amendments were made to the Bills as a result. The Bills, as amended by the Senate, were finally passed by the Commonwealth Parliament on 21 May 1989 and later received Royal assent. Parts of the Australian Securities Commission Act and the Corporations Act were proclaimed and commenced operation in June 1989.

In October 1989, Western Australia, together with South Australia, New South Wales and Queensland - the latter withdrew later - lodged a challenge in the High Court to the validity of the Commonwealth's Corporations Act. On 8 February 1990, by a 6:1 majority, the High Court ruled that the Commonwealth did not have power to legislate for the incorporation of trading or financial corporations. As a result, certain provisions of the Corporations Act 1989 were ruled invalid and, pursuant to an undertaking given to the High Court by the Commonwealth, certain operational provisions of the Corporations Act were not proclaimed by the Commonwealth.

Following the High Court's decision, the States and the Commonwealth sought to negotiate a compromise which would take into account the legitimate legislative powers of the State, but which would also address the criticisms which had been levelled at the existing cooperative scheme. At the same time there were loud and legitimate calls for strength and certainty in the area of companies and securities regulation.

It was against this background that other States gradually moved closer to the Commonwealth position. In the end it appeared that Western Australia's efforts to achieve an improved cooperative scheme could not be taken further. After seeking various safeguards which have previously been reported to the Parliament, Western Australia joined the Commonwealth and all other States in the heads of agreement which were finally agreed in June 1990. The heads of agreement document seeks to address the criticisms of the cooperative scheme in the following ways -

1. **Ministerial Responsibility and Legislative Accountability:** The Australian Securities Commission is to be formally accountable and responsible to the Commonwealth Attorney General and to the Commonwealth Parliament. It is not to have any formal responsibility or accountability to State Ministers or to State Parliaments. In the legislative areas of national significance - takeovers, securities, public fund raising and futures - contained in chapters 6 to 9 of the Corporations Act 1989, the Commonwealth will have sole legislative responsibility. The Commonwealth is required to consult with the States in relation to all legislative proposals, but the States are to have no decision-making role in these national matters.

In recognition of the legitimate legislative competence of the States, a Council of Ministers is to be formed which will have a deliberative function with respect to legislative proposals dealing with other company law matters. That Council of Ministers will have weighted voting rights, with the Commonwealth, as permanent chair, having four votes, together with a casting vote. Each State is to have one vote.

2. **Administrative duplication and inefficiency:** The Australian Securities Commission is to be the sole administering authority for companies and securities regulation in Australia. The ASC will report to the Commonwealth Attorney General. The States will have no further responsibility for matters transferred to ASC authority. The

Commonwealth will be solely responsible for providing the resources to the Australian Securities Commission. The ASC is to be formally accountable and responsible to the Commonwealth Attorney General and the Commonwealth Parliament and does not have any formal responsibility or accountability to State Ministers or State Parliaments. The ASC is to establish a national companies database and a document imaging capability. Investigations and prosecutions under the new national scheme will be the responsibility of the relevant Commonwealth authorities.

3. **Lowest common denominator decision making:** Unlike the National Companies and Securities Commission, the Australian Securities Commission will not have a legislative policy making role. That will be a matter for the Commonwealth Government, and the Council of Ministers. A companies and securities advisory committee has been established to advise the Commonwealth Government on law reform. A corporations and securities panel will also be established to oversee the adequacy of takeovers law and practice. Both the committee and the panel will be made up of persons with relevant industry experience.

To implement the heads of agreement, the Commonwealth Government has introduced the Corporations Legislation Amendment Bill 1990. That Bill completed its passage through the House of Representatives on 15 November 1990 and is now before the Senate. That Bill will convert the Corporations Act from being legislation intended to apply of its own force throughout Australia to an Act which will be applied by the Commonwealth to the Australian Capital Territory and which is to be applied to each of the States by State Bills.

That is the major purpose of the Bill currently before the House. It is important to note that the Bill does not refer powers from the State of Western Australia to the Commonwealth. Instead, the Bill will operate in much the same way as the existing Companies and Securities Industry (Application of Laws) Act; that is, the new corporations law will be a State law, just as the existing Companies (Western Australia) Code is a State law.

The Commonwealth's Corporations Legislation Amendment Bill will insert at the beginning of the Corporations Act 1989 a series of sections or covering clauses. It will then convert the current text of the Corporations Act - with other amendments - into a document called the "Corporations Law". The Corporations Law will be capable of being applied to any State or Territory by legislation of the State or Territory. The overall result of the Commonwealth legislation will be that the covering clauses will apply the Corporations Law to the Australian Capital Territory.

The Bill presently before the House contains provisions that generally mirror the effect of the covering clauses of the Commonwealth Bill, but contains additional provisions. A number of these provisions will have the effect of "federalising" matters arising under State law, so as to provide a common legislative and administrative regime for companies and the securities and futures industries throughout Australia. The administrative uniformity will extend, in particular, to the areas of the investigation and prosecution of offences, the jurisdiction of courts and administrative law.

The following are the main purposes of the various parts of the Bill -

Part 1 - Definitions: This part contains various definitions, those of particular importance being as follows -

"applied laws" means the ASC Law of Western Australia and the Corporations Law of Western Australia;

"commission" means the Australian Securities Commission as established by the Australian Securities Act of the Commonwealth;

"Commonwealth administrative law" includes references to Commonwealth administrative laws; namely, the Administrative Appeals Tribunal Act, the Freedom of Information Act, the Commonwealth Ombudsman Act, the Administrative Decisions (Judicial Review) Act and the Privacy Act.

Part 2 - The Corporations Law, and the Corporations Regulations of Western Australia: This part will apply the corporations law to Western Australia. It will also apply the provisions of regulations made for the purposes of the law. These regulations will be made

by the Commonwealth under the Corporations Act of the Commonwealth, will be known as the Corporations Regulations, and will be applied as if they were regulations made by the Western Australian Parliament.

Part 3 - Citing the Corporations Law and Corporations Regulations: Provisions are included to make it clear that references in the applied laws to "this jurisdiction" will mean Western Australia. This part will also ensure that references to the Corporations Law will include references to the Corporations Act of the Commonwealth, and to any law of another State or Territory which corresponds to that Act. The purpose of this part is to ensure that references to the legislation do not need to discriminate between the laws of a particular State or Territory or the Commonwealth.

Part 4 - Application of the Corporations Law to the Crown: This part is intended to ensure that the Corporations Law applies to the Crown to the same extent - if any - as the Companies (Western Australia) Code presently binds the Crown.

Part 5 - Application orders: This part will allow the scope of application of the Corporations Act of the Commonwealth as it applies to bodies presently regulated by State legislation, to be extended by order made by the Commonwealth Minister with the agreement of the responsible State Minister.

Part 6 - Accounting standards: This part will apply to existing accounting standards made by the Accounting Standards Review Board to Western Australia.

Part 7 - Imposition of fees: The effect of this part is to impose as State fees and levies those fees and levies which are imposed and collected by the Australian Securities Commission in administering the Corporations Law. A separate Bill to be called the Corporations (Taxing) Bill 1990 will provide for imposition of the taxing component of the fees and levies.

Part 8 - National administration and enforcement of the Corporations Law: This part will apply ancillary Commonwealth laws so that these apply to the functions and powers of the Australian Securities Commission. In particular, in the areas of investigation and prosecution of offences, Commonwealth officers will be responsible for these functions. These provisions of Commonwealth criminal laws will be applied - to the exclusion of relevant State laws - relating to offences, so that for all practical purposes offences against the applied laws will be treated as if they were offences against Commonwealth law.

This part also confers powers on the Commonwealth Director of Public Prosecutions and the Australian Federal Police in connection with matters arising under the applied laws. These powers will not be exercised by State authorities, except in accordance with arrangements made between the Commonwealth and the State concerned.

This part also applies administrative law of the Commonwealth to matters arising under the applied laws. This regime will extend to the Administrative Appeals Tribunal Act, the Administrative Decisions (Judicial Review) Act, the Freedom of Information Act, the Ombudsman Act, the Privacy Act and other Commonwealth legislation, and will apply to the exclusion of relevant State laws.

Part 9 - Jurisdiction and procedure of courts: The Bill, together with the covering clauses in the Corporations Act of the Commonwealth, and other State and Territory corresponding Bills, will establish a scheme for the vesting and cross-vesting of both civil and criminal jurisdiction in respect of matters arising under the Corporations Law. The cross-vesting procedures will largely follow procedures already laid down in the Jurisdiction of Courts (Cross-vesting) Acts.

This part will also enable the Federal Court to make uniform rules of court applicable in all States Supreme Courts as well as the Federal Court. These rules will be made in consultation with the State Supreme Courts. That process has already commenced.

Part 10 - Companies liquidation account: This part will ensure that the property of defunct companies and other unclaimed moneys of companies which are vested in the Commissioner for Corporate Affairs continue to be dealt with according to existing procedures.

Part 11 - The ASC Law, and the ASC Regulations, of Western Australia: This part deals with matters of a savings or transitional nature. The existing cooperative scheme legislation will be disappplied to the extent that it is inconsistent with the applied law. Otherwise, the effect of current State law will, as a general rule, be preserved. References in existing State

law to the cooperative scheme legislation will be automatically read as references to the new laws, subject to a mechanism to deal with inappropriate cases by way of regulation. The need for numerous direct amendments of State legislation is therefore avoided.

Part 12 - General: It is recognised that, in the course of companies investigations or prosecutions, related matters may arise which can be dealt with only under the applied laws or, on the other hand, under the State laws. This part will enable arrangements to be made for Commonwealth authorities to deal with such matters under State laws which arise incidentally or consequentially from investigations or prosecutions of applied law matters. Division 2 provides that all fines and penalties collected under the applied laws must be paid to the Commonwealth.

Part 13 - Transitional: State Corporate Affairs staff members transferring to employment with the ASC will be released from confidentiality provisions which may otherwise have applied in relation to communicating information to the ASC gained in the course of employment with the State department. Both the Government and the ASC recognise the desirability of encouraging as many existing State Corporate Affairs Department staff to transfer to the ASC as possible. This is not only in the interests of a smooth transition and efficient performance by the ASC, but also will reduce the redeployment burden on the State.

Division 1 will implement the Government's agreement with the State public service union to allow State staff who elect to transfer to the ASC the right to retransfer to the State Public Service at any time within two years of transfer. During that period those staff will also be eligible to apply for State Public Service vacancies while employed at the ASC. Transferring staff will be permitted to elect to maintain membership of the State superannuation scheme.

Division 2 will preserve a residual operation for cooperative scheme laws. Otherwise, and in the case of inconsistencies, the applied laws will prevail. Cooperative scheme laws will continue to apply in such cases as dealing with assets of defunct companies which were removed from the register of companies before commencement of the applied laws, administration of the company liquidations account and winding up of bodies other than companies. Provision is also made to modify the residual application of cooperative scheme laws by way of regulation, as the scope of those residual laws will gradually narrow.

Division 3 operates so that the Corporations Act applies to the same extent as the Companies (Western Australia) Code now applies. Existing exemptions are preserved.

Part 14 - Consequential Amendments: As existing references to cooperative scheme laws will be read as references to the equivalent applied law, the need for numerous direct amendments of State legislation is avoided. Amendment to the Interpretation Act 1984 is made to provide for a uniform national interpretation of the applied law, according to the Commonwealth Acts Interpretation Act.

Business names legislation will continue to be administered by State authorities, but using the ASC computer system. Clause 100 provides the framework for appropriate administrative arrangements to be made.

In order to ensure there is substantial uniformity of interpretation of the corporations law, an explanatory memorandum has also been prepared and has been distributed.

I have advised this House several times that any compromise which seeks to replace the existing cooperative scheme laws in Western Australia must ensure that the Australian Securities Commission maintains an adequate level of service to the business community in Western Australia of at least the standard currently provided by the Corporate Affairs Department.

The Australian Securities Commission's staffing arrangements for its Western Australian regional office have not yet been finalised. No offers of employment have been made to any Corporate Affairs Department staff; no regional commissioner has yet been appointed for Western Australia; no training of staff has been effected. The best estimate that I have for the new offices for the Australian Securities Commission to be ready to operate is March 1991. Similarly, the Australian Securities Commission's national computer and imaging system is also not likely to be operational in Perth until March 1991.

On the positive side, the Australian Securities Commission's Perth office will be staffed by 190 persons, which compares with approximately 165 Corporate Affairs Department

employees in the equivalent functional areas. In the course of negotiations I advised the Commonwealth that the State Government required six Commonwealth Senior Executive Service positions to be allocated to the Australian Securities Commission's Perth regional office. This is regarded as the minimum number required to ensure an acceptable level of decision making authority in this State. The Commonwealth has agreed to provide four SES positions, and to second two additional State officers to the Perth regional office for three to five years. This is to maintain the same level, in terms of both number and years of experience, of senior managers in the initial years of the ASC as is presently in the Corporate Affairs Department. These staff will be held against lower grade Commonwealth positions but will have their pay "topped up" to SES equivalent levels.

I cannot, however, say that the conditions currently being offered by the Commonwealth will be equivalent to State conditions, or are likely to attract from the Corporate Affairs Department all of its existing experienced staff. However, in order to encourage staff to transfer to the Australian Securities Commission, the Commonwealth has offered to maintain their equivalent State salaries for four years in real terms. In addition, the Government has agreed that any staff of the Corporate Affairs Department who transfer to the Australian Securities Commission will have the right to transfer back to the State Public Service within two years.

The ASC has agreed with the Government's request for it to locate its Perth business office, which provides over-the-counter services and its regional office - housing the legal investigations and financial analyst staff - in the same building instead of in separate building. The ASC has also agreed to share its accommodation with the State Business Names Registry. These arrangements are seen to be in the best interests of business in this State, by providing a "one stop" document lodgment registration and inquiry service.

Performance measures for the ASC's Perth office have not yet been settled. However, in most comparable functions it is expected that the ASC will meet or better the response times for public searches and registration of documents currently achieved by the State Corporate Affairs Department. Unfortunately, the ASC has been unable to indicate what functions or powers will be delegated to the Perth regional commissioner. It says that it is unable to identify these functions or powers until the amendments to the Corporations Act have completed their passage through the Commonwealth Parliament.

It is with regret that I must inform the House that arrangements for the establishment of the ASC's Perth office have not yet been finalised, and I also must acknowledge that I introduce the Bill to this House with some reservations. However, the Government is reasonably satisfied that, considered as a whole, and against the most undesirable alternative of Western Australia's being left out of a uniform national regulatory scheme, and thereby contributing to a weakening of investor confidence in the financial system, this Bill should be supported. Mr Laurie Shervington, the spokesman for the group of business and professional organisations which has opposed the Commonwealth's moves, has indicated that he personally supports the introduction of the Bill for similar reasons.

There have been many public announcements that the ASC will be ready to operate from 1 January 1991. Some States, though not Western Australia, have consciously run down their Corporate Affairs Departments according to this deadline. Others, such as Victoria, already have most of their Corporate Affairs Department staff performing ASC functions. It is clear that the Commonwealth, and New South Wales, Victoria, Queensland, South Australia and Tasmania are moving with a view to proclaiming their application of laws legislation to take effect on 1 January 1991. Where the ASC does not have its staffing or offices ready, these State Governments indicate they will cooperate with the ASC and allow it to use existing State staff and offices to carry out the ASC functions until it is fully operational on its own account.

Recognising that the Australian Securities Commission will not be ready in Western Australia either in terms of staffing or accommodation or computer equipment, I inform this House that the Bill should be considered on the basis that the ASC agrees that the whole of the State Corporate Affairs Department staff that perform companies and securities functions, together with necessary support staff, should be seconded to the services of the ASC until staffing of the ASC is finalised.

The secondment arrangement would be brought to an end by a transfer of staff from the

Corporate Affairs Department to the ASC, and its new office is occupied. The State would require a minimum period during which the ASC would take all existing staff of the Western Australian Corporate Affairs Department until at least the end of February 1991. That period could then be extended by agreement until the ASC is itself ready to operate. Such a secondment would be on the basis that the existing senior staff of the Corporate Affairs Department are also all seconded to the ASC. That commission should not be able to replace State senior management personnel with its own senior staff until the ASC's entire Perth operation is ready to commence and operational. Such secondment would also be made on the basis of full cost recovery to the State including the total cost of staff, use of State accommodation and equipment.

Members will note that the Bill which has been circulated is a substantial document. At the same time, there is really only one substantive matter to be addressed; that is, the principle of agreeing to cooperate in the transfer of the whole of the national corporate and securities regulation system to the Commonwealth so as to take effect on 1 January 1991. To say that the timetable is tight is acknowledged to be an understatement. Nevertheless, we must move quickly if we are to take part in the national system. I emphasise, although members will already be aware of this, that the late introduction of this Bill has been due not to any tardiness at the State level, but to the difficulty at arriving at an agreed model for its introduction into all State Parliaments at this time. Given that we are faced with a single question, and although the Bill contains many pages, I advise the House that in an attempt to ensure the Bill can be adequately debated and our position determined in good time, I propose to resume the second reading debate on this measure on Wednesday of next week.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Derrick Tomlinson.

EVIDENCE AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

CRIMES (CONFISCATION OF PROFITS) AMENDMENT BILL

Returned

Bill returned from the Assembly with amendments.

Assembly's Amendments - In Committee

The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair, Hon J.M. Berinson (Attorney General) in charge of the Bill.

The amendments made by the Assembly were as follows -

Clause 18

Page 16, line 19 - To delete ", a special forfeiture order".

Page 17, line 23 - To delete "or special forfeiture order".

Page 17, lines 27 and 28 - To delete "or special forfeiture order".

Page 17, lines 30 and 31 - To delete "or special forfeiture order".

Page 17, line 32 - To delete "or special forfeiture order".

Page 18, lines 2 and 3 - To delete "or special forfeiture order".

Page 18, lines 6 and 7 - To delete "or special forfeiture order".

Hon J.M. BERINSON: I move -

That the amendments made by the Assembly be agreed to.

I again express my appreciation to all members for their assistance in assuring that the passage of this Bill is expedited. Members may recall that as a result of an amendment moved by Hon Derrick Tomlinson to delete clause 13 of the Bill as originally drafted, it was necessary to move a number of consequential amendments. They were necessarily prepared

in great haste and it was subsequently found that further amendments, which really amount to only one amendment to clause 18, were still required. The Legislative Assembly has passed those amendments and seeks our concurrence. As members will note, seven changes are proposed to clause 18 but they are all seeking to delete reference to special forfeiture. Clause 13 established special forfeiture orders and the deletion of that clause leads to the need which I have previously addressed, and which we now address again, to delete reference to that elsewhere. I commend this motion to the Chamber.

Hon DERRICK TOMLINSON: The Opposition has no objection to the amendments. As was indicated by the Attorney General, the decision to amend the Bill came forward in a rather hasty manner and the response by the Government in moving necessary amendments was equally hasty. In that drafting process on Tuesday some aspects were overlooked, and these amendments are simply correcting them. We support the motion.

Question put and passed; the Assembly's amendments agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

WORKERS' COMPENSATION AND ASSISTANCE AMENDMENT BILL

Second Reading

Order of the Day read for resumption of debate from 21 November.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [5.30 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Police Minister Edwards - Burkett Character Reference

HON R.G. PIKE (North Metropolitan) [5.31 pm]: The House should not adjourn until it is aware that, according to a report in *The West Australian* on Tuesday, 13 November, Police Minister Edwards supplied a character reference for Mr Graham Burkett, who was subsequently convicted of an offence under the provisions of the Local Government Act. Hon Graham Edwards is parliamentary head of the Police Department, which was prosecuting and, in this case, successfully so. The offender was found guilty of postal vote offences.

Hon Fred McKenzie: He pleaded guilty.

Hon R.G. PIKE: The questions are: Could this action by Police Minister Edwards be seen to undermine Commissioner of Police Bull and his department in regard to law enforcement in this State? My answer to that, and the answer of thinking people, is that it could. The second question is: Could this action by Police Minister Edwards, which clearly is contrary to Commissioner Bull and the department's investigations, decisions and actions, be seen to be very unwise and of doubtful propriety? My answer is, yes.

Hon J.M. Berinson: It is more proper than the speech you are now making.

Hon R.G. PIKE: My answer, and that of thinking people, is, yes.

Hon Garry Kelly: Why couldn't you wait until the Minister was present?

Hon J.M. Berinson: What date was this report?

The PRESIDENT: Order! Let the member make his comments please.

Hon R.G. PIKE: The Minister for Police knowingly and with great purpose gave a character reference to a person who was the subject of a legal charge in the court, of which charge he was found guilty. The question is, and I repeat -

Hon Tom Stephens: You are embarrassing your own members by attacking someone who is not in the House.

Hon R.G. PIKE: I do not want to raise my voice, but let the facts speak for themselves.

Hon Garry Kelly: Why don't you wait until he is here?

Hon R.G. PIKE: I am sorry he is not here, but he will get his chance. I am not going to wait forever on a matter of this importance.

Hon J.M. Berinson: You were here on Tuesday, were you not?

Hon R.G. PIKE: Notwithstanding the manifest lack of propriety by the Minister, and it is not just a judgment that this House will make, it is a judgment the community needs to make -

Hon J.M. Berinson: What is improper about it?

Hon R.G. PIKE: I said in this House recently, and I say again, that Commissioner Bull's lack of action for an amazing two years can be compared with the selective activity in the worst days of the New South Wales Police Commissioner and others in the NSW Police Force.

Hon J.M. Berinson: You should be ashamed of yourself.

Hon R.G. PIKE: I will say this for the third time.

Hon Tom Stephens: You should be twice as ashamed of yourself.

Hon R.G. PIKE: Members will recall that Minister Edwards unsuccessfully, and incorrectly, twice demanded the withdrawal of those remarks. I will make a very emphatic point and a conclusion. At the same time as Police Minister Edwards is justifying, by his defence of him, Commissioner Bull's action or lack of action - the information was sitting in his safe for two years - the commissioner begins to ask the local government councillors in Stirling what it is all about.

Hon Bob Thomas: That is not true.

Hon J.M. Berinson: How do you know there was no action?

Hon R.G. PIKE: Those facts also speak for themselves. By giving a character reference to a defendant, successfully prosecuted by his own department, Hon Graham Edwards has undermined Commissioner Bull and his force -

Hon J.M. Berinson: Rubbish.

Hon Garry Kelly: Absolute rubbish.

Hon R.G. PIKE: - of which he is the parliamentary head.

Hon J.M. Berinson: Explain how you link the two thoughts?

Hon R.G. PIKE: Would the Leader of the House give a character reference to someone, whom he may know personally, who is being prosecuted by his department, if he thought that person to be a "good guy" and that it was a correct determination? The question of Westminster privilege -

Point of Order

Hon J.M. BERINSON: This is seriously misrepresenting the Minister for Police in his absence. There is nothing in a character reference to suggest that a conviction is wrong. It is what it says - a character reference on the past record of a man. To suggest that the Minister for Police has undermined his commissioner by indicating that the decision of the court is wrong is not only absurd but also highly improper, as are almost all of Mr Pike's current comments.

The PRESIDENT: Order! The matter may well be something that the Leader of the House does not like, that many of us do not like, but it is a debatable matter and I am not in a position to stop the member. I suggest the member proceed because he has only four minutes left.

Debate Resumed

Hon R.G. PIKE: I hope that when the Minister is here and he replies -

Hon Garry Kelly: Why didn't you wait for him?

Hon R.G. PIKE: I will not wait forever.

Hon J.M. Berinson: Why didn't you do it when he was here?

Hon R.G. PIKE: He will tell the House without any camouflage - I do not want to shout, but I will if I have to - the precise reason why -

The PRESIDENT: Order!

Hon R.G. PIKE: - Commissioner Bull did not interview City of Stirling councillors until two years after the information was in his hands. Any Minister, in the light of the facts, should have asked and received an explanation from his senior departmental officer. If he has not he is being irresponsible by not requiring his head of department to be accountable. Notwithstanding the tradition in regard to the commissioner and the Minister for Police, which is very clear under the Westminster system, there is, and has to be, an ultimate authority. The Minister for Police must be in a position to demand answers when matters of this serious import are evident. To deny the logic of that would mean that the Commissioner of Police is answerable to nobody, and the real question that remains unanswered is that at the same time that this Minister is taking this action he chooses not to deal with a matter of this serious import.

Hon Tom Helm: Sit down!

Adjournment Debate - 22 Construction Squadron of Royal Engineers - Disbandment

HON REG DAVIES (North Metropolitan) [5.38 pm]: Before the House adjourns there is a matter of public importance of which I feel members should be aware. As I said in my maiden speech, I consider defence to be a very important issue, something which is not just a Federal responsibility but the responsibility of every member of the public. As part of the Federal Government's cost cutting measures it has decided to disband the Western Australian based 22 Construction Squadron of the Royal Australian Engineers. This unit was raised in Perth in September 1949. A decision to disband this unit with 41 years of service to our nation and our State is very difficult to accept.

There are only two major regular Army units based in Western Australia, which has the largest land mass of any State in this country. This State's coastline is one of the most difficult to defend and in light of this it is beyond my comprehension that our Premier and this State Government have failed to address this issue. The Government's complacency on such an important issue astounds me. I urge the Premier to make very strong representation to the Federal Government to show at least some concern for the defence of Western Australia.

Hon T.G. Butler: Have you made any representation?

Hon REG DAVIES: I am making my representation in this Parliament by bringing this matter to the attention of members and, hopefully, to the attention of the people of Western Australia.

The decision to disband this unit was transmitted to the members of the unit on the day the Federal Budget was brought down in August this year. They were told that the Western Australian-based 22 Construction Squadron would be removed from the order of battle on 30 June next year. Not a word of protest has been heard from this Government. Members should be aware that this unit not only has a very strong military role, but also it has made a valuable contribution to the community of Western Australia. It has always been on stand-by as a bushfire control unit in the peak fire hazard periods, when most of us are on our Christmas holidays. It has always stood by with heavy equipment in the case of State emergencies, including floods, and has been ready to repair roads and bridges and rescue people when required. Last year this unit constructed the multi million dollar sniper firing range at the Special Air Service Regiment and if it had been constructed by private contractors not only would it have taken three times longer to construct, but also it would have been much more expensive. As an indication of the unit's contribution to the Western Australian community, this year the unit was involved in well drilling for water for community use in the Shire of Gingin and at Tom Price. Members of the unit also rendered assistance to the Commonwealth, Scientific and Industrial Research Organisation at Baker's Hill. The opportunity to win water from underground resources, using well boring techniques, will be lost to Western Australia as soon as the well drilling troop is transferred to Sydney.

Part of the unit's non-military work proposed for 1990-91 was the demolition of the Carnarvon meat works, the construction of a bike path at Kununurra and the upgrading of roads in that area. Other projects which were to be undertaken by the unit were the replacement of lawns and reticulation at the Kununurra District Hospital; the establishment of the Wanneroo cadet block which was to serve the youth in the northern districts; the construction of the Shark Bay viewing platform and associated roadworks; roadworks at the Royal Australian Air Force base at Pearce; and, bituminising of an area at the Wanneroo Air Training Corp to, once again, assist the youth in the area. It has carried out minor works at Balgeri community centre and provides backup support for Variety Club functions. The works I have outlined may not go ahead and the skilled personnel will be lost to our community.

I am astounded that there has been no representation to the Federal Government by the State to try to retain this unique unit in its State of origin. The Premier should be calling not only for the retention of the 22 Construction Squadron in Western Australia but also for further defence forces in Western Australia, preferably in the form of a regular infantry battalion. Most people in military circles acknowledge that Western Australia is grossly under-manned militarily. If the Government does not have the funds to form a new infantry battalion in Western Australia or to relocate a battalion from the east coast I would like to recommend an alternative: Members may recall the Gurkha regiments which were supportive of allied forces throughout the Second World War and in recent conflicts. It is a military force of Nepalese origin which is British trained. The Gurkhas have become well known worldwide for their fighting capabilities and fine discipline. I understand the British Government is withdrawing a Gurkha regiment from Hong Kong at the beginning of 1993 and no decision about its future has been made by that Government. I suspect it will be disbanded and thrown to the four winds. If the Federal Government cannot afford to relocate a battalion to look after the north of our State some thought should be given to relocating the Gurkha regiment to the north coast of Western Australia. It would create jobs in the north because military units require support and they are definitely needed to give peace of mind to the people who live in the north of our State.

I call on the Government and the Premier to make representation to the Federal Government on behalf of the defence of Western Australia to keep the 22 Construction Squadron of Royal Engineers based in Perth where it belongs.

*Adjournment Debate - Police Minister Edwards - Burkett Character Reference -
Hon R.G. Pike's Remarks*

HON GARRY KELLY (South Metropolitan) [5.48 pm]: I rise to comment on the remarks made by Hon Bob Pike. This House has become well used to Hon Bob Pike's prostituting the adjournment debate by raising highly controversial matters.

Withdrawal of Remark

THE PRESIDENT: Order! The honourable member cannot use that language and I ask him to withdraw it.

HON GARRY KELLY: I withdraw my remark.

Debate Resumed

HON GARRY KELLY: Hon Bob Pike is misusing this debate to raise highly controversial matters instead of for its intended purpose of raising urgent matters. I will not comment on the subject matter of the member's speech - the court case and the character reference. However what I am annoyed about and mentioned by way of interjection which the member chose to ignore, which is his right, was the outrageous tactic of raising a matter which criticises the conduct of a Minister in this House and raising it when that Minister is absent.

HON FRED MCKENZIE: I understand he is at a Ministerial Council meeting.

HON GARRY KELLY: I do not know where he is, but Hon Fred McKenzie has told me he is on official business.

It is totally unreasonable for a member to speak on the adjournment debate on the last sitting day of the week and raise a matter which turns on a personal activity and the behaviour of a Minister in this House and does not give that Minister a direct right of reply.

Hon T.G. Butler: He would not have raised it if he had been here.

Hon R.G. Pike: Yes he would.

The PRESIDENT: Order!

Hon GARRY KELLY: The Minister for Police will have to wait until next week before he is given an opportunity to reply to Hon Bob Pike and that is not fair or reasonable. The Minister has been away for two of the three sitting days this week and the case referred to by the member took place on 13 November, which is nine days ago. He has had ample opportunity to raise this issue while the Minister was in the House. He was here on Tuesday and I ask why it was not raised in the adjournment debate then. It seems to me that Hon Bob Pike did not have the guts to raise this matter in front of the Minister and to put it directly to him. He waited until Hon Graham Edwards was on the eastern seaboard representing the Government before raising it. The honourable member has transgressed the bounds of decency and he should desist from doing it in future.

Adjournment Debate - Sea Lion Killing, Oyster Harbour - Net Fishing Ban Request

HON MURIEL PATTERSON (South West) [5.51 pm]: Today I have received a troubled letter from a very well respected gentleman who lives in Albany. The letter states that it is the first time in his 73 years that he has ever asked for help from a representative of Parliament. The motivation for this letter is the recent wanton killing of a sea lion in the Oyster Harbour. His request is simple: Having seen on many occasions net fishermen indiscriminately robbing the area of fish and sea life of all sizes, he has asked for net fishing to be banned in all rivers, estuaries, harbours and enclosed waters. I have never seen this type of activity but I have no reason to doubt the integrity of this gentleman. Local visitors and tourists enjoy fishing in these waters, which is part of the attraction of our southern shores. The problem is that for many years professional fishermen have suffered great hardship as the Government has diminished the number of licences and quotas. These matters are totally beyond their control and have forced them to take extreme measures for subsistence. They are in this situation through no fault of their own. It is necessary for guidelines to be established that will not impinge on the industry, but the wanton killing of animals must be stopped. Therefore, I ask the Leader of the House to take this problem to the Minister for Fisheries for his immediate consideration.

Question put and passed.

House adjourned at 5.52 pm

QUESTIONS ON NOTICE

COURTHOUSES - BRIDGETOWN COURTHOUSE

Long Term Plan

885. Hon Murray MONTGOMERY to the Leader of the House representing the Minister for Finance and Economic Development:

- (1) Is it correct that the courthouse in Bridgetown is not currently in use by any Government department or agency?
- (2) Is the Minister aware that the State Emergency Service wants to have long term use of the building?
- (3) Will the Minister agree to the long term use of the building by the SES?
- (4) What is the Government's long term plan for the Bridgetown courthouse?

Hon J.M. BERINSON replied:

The Minister for Finance and Economic Development has provided the following reply -

- (1) No. The Bridgetown Courthouse is used by local JPs approximately twice weekly for hearing Petty Sessions charges, and biweekly by the Stipendiary Magistrate on circuit from Bunbury.
- (2) No. Over the last 18 months by arrangement with the Bridgetown Police, the local SES group has been using the Bridgetown courtroom for its weekly meetings. Also, SES equipment is kept in adjacent storerooms. Prior to this, the group stored its equipment in shire owned premises, which are no longer available. The local SES volunteer group is currently exploring the availability of alternative premises.

(3)-(4)

No, as it will continue to be required for court hearings.

PERTH THEATRE TRUST - VENUE MANAGEMENT AND PROGRAMMING PROGRAM

Commercial Return Improvement - Self-supporting Venues

1110. Hon J.N. CALDWELL to the Minister for The Arts:

- (1) What is the targeted level of improvement in commercial return from services provided under the Venue Management and Programming Program of the Perth Theatre Trust?
- (2) Is there a long term plan for the Perth Concert Hall, the Playhouse, the Quarry Amphitheatre and the Subiaco Theatre to become financially self-supporting?
- (3) If the answer is yes, what are the target dates for achieving that goal in the case of each of the venues?

Hon KAY HALLAHAN replied:

- (1) The aim of the Perth Theatre Trust from the venue management and programming program is to provide better returns through levying realistic commercial rates for venues and in maximising use of these venues. At the same time the trust aims to ensure cultural diversity through ensuring that the venues under its control are effectively used.

(2)-(3)

The long term goal of the trust for these venues is to reduce dependence on Government support. As the theatre industry is labour intensive, it is inevitable that costs will continue to rise. In addition, maintenance costs are likely to increase over the next few years. The trust endeavours to generate additional income from a range of activities in all its venues, but it is not expected that any of these venues will become financially self-supporting.

ARTS LAW SERVICE - STATE BASED PROPOSAL

1112. Hon J.N. CALDWELL to the Minister for The Arts:

- (1) What is the proposed State-based Arts Law Service and how has it been assessed that there is a need for such a service?
- (2) Will the Minister be seeking opinions from outside the arts community before deciding on whether or not to commit public money to the proposed service?

Hon KAY HALLAHAN replied:

- (1) In response to a previous question without notice, it was indicated that there was little information available regarding a State based arts law service. There is no such service in Western Australia and there is no intention to establish such a service.

In May 1989 the General Manager of the Australia Council wrote to all State arts Ministers asking that they investigate the feasibility of State based arts law referral centres using, as a model, a service established in Victoria. A report was commissioned which will be finalised shortly. The report does not recommend the establishment of a State based service. Rather, it proposes an extension of services currently provided by the Arts Law Centre of Australia which is located in Sydney. This organisation provides services in Western Australia through a panel of volunteer private solicitors. It staff visit this State periodically and the centre has a series of publications. In order to provide equal access to all States it has a toll free telephone number. The organisation receives financial assistance from the Western Australian Government. The conclusion of the report is that currently the referrals and services provided by the Arts Law Centre of Australia are adequate.

At the same time as the report into a State service was commissioned, the Arts Law Centre of Australia agreed to hold a Western Australian arts law fortnight. Staged in August 1990, arts law fortnight linked a public seminar program with opportunities for artists to have individual consultation on arts law matters.

- (2) The matter has already been widely canvassed. However, as preliminary investigation regarding the need for legal arts services indicated that needs were currently covered, it was not considered necessary to take the matter further.

LOCAL GOVERNMENT - ROAD FUND BUDGET REDUCTION

Main Roads Department Requirement

1118. Hon N.F. MOORE to the Minister for Police representing the Minister for Transport:

- (1) Is it correct that local authorities are being required by the Main Roads Department to reduce their road fund budgets by five per cent?
- (2) If so, what is the reason for this decision?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1)-(2)

Grants provided to local government through the Main Roads Department consist of Federal and State funds. Early in July, prior to finalisation of the State Budget, local governments were given an indication of the amount of Federal and State funds they could expect to receive through Main Roads Department grants. This was done to assist local governments to prepare their 1990-91 budgets and programs. In providing the information all local governments were advised that the amounts were indicative and that it may be necessary to make adjustments when the Main Roads Department's revenue budget was finalised.

The State funds component of the department's revenue budget was subsequently finalised at an amount less than that used in determining the indicative amounts advised to local governments early in July. Consequently, as part of budget adjustments, a reduction of 5.53 per cent of the indicative amounts of State specific and special grants is required, except for local governments where the total reduction is calculated to \$500 or less when no reductions will be made. This procedure was determined following discussions between representatives of the Western Australian Municipal Association and the Main Roads Department.

ROADS - ST GEORGE'S TERRACE
Central Park Development - Access Lane

1130. Hon PETER FOSS to the Minister for Police representing the Minister for Transport:

- (1) Is it correct, as reported in "The 7.30 Report" that part of the present width of St George's Terrace is to be taken to provide a lane for access to the Central Park Development?
- (2) If so -
 - (a) how much of the present width is to be so taken and over what length of St George's Terrace;
 - (b) what effect will that have on the traffic lanes in St George's Terrace; and
 - (c) what effect will that have on the traffic flow in St George's Terrace?
- (3) How is it proposed to give legal effect to this arrangement?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) No.
- (2)-(3) Not applicable.

RAILWAYS - NORTHERN SUBURBS RAIL LINE
Bridge - Joondalup Drive-Shenton Avenue.

1141. Hon GEORGE CASH to the Minister for Police representing the Minister for Transport:

- (1) What is the estimated cost of providing a road bridge for the northern suburbs railway at the intersection of Joondalup Drive and Shenton Avenue?
- (2) Will road traffic need to be diverted during the construction phase of the road bridge?
- (3) Are there alternative roads available?
- (4) If not, will alternatives have to be constructed?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) As the construction of a bridge on Joondalup Drive at Shenton Avenue falls into the second stage of the project, beyond Joondalup, design work is not significantly advanced and a definitive cost has not been calculated.
- (2)-(4) A detailed construction staging plan for this bridge has not yet been developed, but it is considered that a combination of staged construction and minor carriageway adjustments will be possible to maintain a traffic route.

SCHOOLS - GOGO PRIMARY SCHOOL
New Building Funding

1147. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Education:

Have sufficient funds been provided to the Gogo Primary School to furnish a recently completed building?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

Funding is available for this project and orders will be placed as soon as the list of requirements is received from the school.

TOURISM - TOURIST BUREAUS
Government Ticketing Arrangement Changes - Income Loss Compensation

1152. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Tourism:

What steps are being taken to compensate tourist bureaus for loss of income due to a recent change of Government ticketing arrangements?

Hon GRAHAM EDWARDS replied:

The Minister for Tourism has provided the following response -

The Western Australian Tourism Commission is preparing an analysis of the impact of the ticketing arrangement changes on the net revenue of the bureaus. I will be reviewing that analysis shortly.

IRON ORE - YANDICOOGINA MINE DEVELOPMENT
BHP Minerals and Government Agreement

1162. Hon P.H. LOCKYER to the Minister for Resources :

- (1) Has an agreement been reached between the Government and BHP Minerals with regard to the development of the Yandicoogina iron ore mine 90 kilometres north east of Newman?
- (2) If so, has agreement been arranged to fly-in, fly-out the work force?
- (3) If not, what will be the proposed agreement with regard to this matter?

Hon J.M. BERINSON replied:

- (1) No. Negotiations are proceeding.
- (2) Not applicable.
- (3) Current negotiations are on the basis that the work force is to be contracted and accommodated at the mine site in temporary accommodation units. The company and its contractors will be required to make best efforts to recruit the work force from the Pilbara region where possible.

VIDEOS - X RATED VIDEOS
Canberra

1165. Hon J.N. CALDWELL to the Minister for The Arts:

What does the Minister understand to be the extent of X rated videos coming into Western Australia from Canberra?

Hon KAY HALLAHAN replied:

The regulation of private mail services within Australia is a matter for the Commonwealth. The honourable member will be aware that the State Government has determined recently to continue the ban of the sale and distribution of X rated videotapes.

RESERVE 28199 - COTTESLOE TOWN COUNCIL
North Cottesloe Surf Life Saving Club - Lease Arrangement

1171. Hon BARRY HOUSE to the Minister for Lands:

- (1) Has the Minister started proceedings against the Town of Cottesloe to divest reserve 28199 which contains the North Cottesloe Cafe and the Blue Duck Restaurant along with other facilities and public open space?
- (2) Is it the Minister's intention to carve this reserve into three portions?
- (3) If so, why?

Hon KAY HALLAHAN replied:

- (1) The Town of Cottesloe and the North Cottesloe Surf Life Saving Club have been asked to accept leasing arrangements over premises containing the North Cottesloe Kiosk and the Blue Duck Restaurant, in lieu of present reserve arrangements.
- (2) Two leasehold sites are proposed to be created with the provision of public access between the sites to the beach.
- (3) It is considered that leasing is a more appropriate tenure for such commercial undertakings than public recreation reserves. This is consistent with reserve policy and legal constraints associated with the use of recreation reserves of this nature.

DEPARTMENT OF TRANSPORT - CONSOLIDATED REVENUE FUND
ALLOCATION
Reduction Reason

1172. Hon D.J. WORDSWORTH to the Minister for Police representing the Minister for Transport:

In respect of the Department of Transport outturn for 1989-90, will the Minister explain what was the nature of the Consolidated Revenue Fund allocation being reduced as -

- (a) a result of additional revenue of \$300 000 in licences; and
- (b) other revenue of \$400 000?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

The Department of Transport is funded through the Transport Coordination Fund, a trust fund. Any shortfall between revenue and expenditure is funded from the Consolidated Revenue Fund. All revenues which are above budget have an effect on the amount of funding required from the Consolidated Revenue Fund.

RAILWAYS - NORTHERN SUBURBS RAIL LINE
Rail Station Car Parking Bays

1174. Hon GEORGE CASH to the Minister for Police representing the Minister for Transport:

- (1) What is the estimated number of car parking bays that will be available to commuters at the following proposed stations of the northern suburbs rail line -
 - (a) Glendalough;
 - (b) Stirling;
 - (c) Warwick;
 - (d) Whitfords;

- (e) Edgewater;
- (f) Joondalup; and
- (g) Burns?

(2) Are there any plans to charge commuters for this facility?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) (a) 170
- (b) 600
- (c) 800
- (d) 600
- (e) 700
- (f) 200
- (g) 800.

(2) No.

CHILDREN'S COURT OF WESTERN AUSTRALIA ACT - SECTIONS 40-42
Appeal Statistics

1175. Hon GEORGE CASH to the Attorney General:

- (1) Since the proclamation of the Children's Court of Western Australia Act 1988, how many reviews/appeals have been initiated pursuant to sections 40, 41 and 42?
- (2) How many of those reviews/appeals have been initiated by the Director General of the Department of Community Services?

Hon J.M. BERINSON replied:

- (1) 43.
- (2) 17.

STATESHIPS - SHIPS
Major Refits

1176. Hon E.J. CHARLTON to the Minister for Police representing the Minister for Transport:

- (1) Have any of the State's ships recently had any major refits?
- (2) If the answer is yes, was the work carried out overseas?
- (3) Does Stateships itself have the capacity to refit the ship in this manner?
- (4) If yes to (3), why were Stateships' own resources not used instead of contracting the work overseas?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) No, but MV *Koolinda* and MV *Pilbara* were modified prior to redelivery, as stated in the answer given to question 983.
- (2) Yes, Singapore as previously stated.
- (3) No.
- (4) Not applicable.

STATESHIPS - SENIOR MANAGER
Private Company Shareholding

1178. Hon E.J. CHARLTON to the Minister for Police representing the Minister for Transport:

Can the Minister assure the House that no senior manager at Stateships has any significant shareholding in or any other form of financial benefit from any of the private companies that do business with Stateships?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

The question has been put to Stateships' senior managers and I am advised that the reply in all cases has been in the negative.

STATESHIPS - EMPLOYMENT CONDITIONS

Trade Union Membership

1179. Hon E.J. CHARLTON to the Minister for Police representing the Minister for Transport:

Is it a condition of employment for any of the Stateships workforce that they must be members of a trade union?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

No. However, industry arrangements in some cases, such as seafarers, preclude the employment of other than union members.

STATESHIPS - MV "PILBARA" AND MV "KOOLINDA"

Oil and Bulk Cement Cargo Refits

1180. Hon E.J. CHARLTON to the Minister for Police representing the Minister for Transport:

- (1) Were the State ships, *Pilbara* and *Koolinda*, fitted out for either oil or bulk cement cargo?
- (2) Was the Chief Executive Officer of Stateships advised against the refits?
- (3) If the answer is yes, by whom and when?
- (4) Is it correct that both the *Pilbara* and the *Koolinda* are currently overseas having all the refitting referred to in (1) taken out?
- (5) Will the Minister provide details of the bulk cement shippings by either the *Pilbara* or the *Koolinda*, including the number of trips, the tonnages carried, the cost of the refit and the removal of the refit and the return to the State from the bulk cement shippings?
- (6) Will the Minister provide details of the oil shippings by either the *Pilbara* or the *Koolinda*, including the number of trips, the tonnage shipped, the cost of the refit and the removal of the refit and the return to the State from the shipping of oil?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Yes, for bulk cement or bulk quicklime and for bulk fuel.
- (2) No.
- (3) Not applicable.
- (4) No. The vessels were redelivered to their owners on 16 October and 2 October 1990. The cement/quicklime facilities were removed prior thereto.

(5)-(6) (a)

The cement facilities were installed by the owners prior to delivery and the cost per ship thereof US\$864 944 (A\$753 304 in 1981) was included in the charter hire. Stateships paid A\$165 474 per ship for the removal of the facilities in 1990. In the period on charter to Stateships MV *Koolinda* carried a total of 97 272 tonnes of cement/quicklime earning freight income of A\$4.5 million.

M.V. *Pilbara* carried a total of 101 550 tonnes of cement/quicklime earning freight income of A\$4.8 million.

The unique bulk cement and bulk quicklime system installed in the ships won both the CIT Australian Transport Industry and the Australian Institute of Materials Handling Transport Awards in 1982, and enabled the export of cement and quicklime from Western Australia which otherwise could not have been achieved.

- (b) The bulk fuel facilities were installed by the owners prior to delivery and the cost per ship thereof, US\$75 000 (A\$76 789 in 1981) was included in the charter hire. Removal of the fuel installation was not required for redelivery. In the period on charter to Stateships MV *Koolinda* carried a total of 28 709 tonnes of bulk fuel earning freight income of A\$755 090. MV *Pilbara* carried a total of 25 322 tonnes of bulk fuel earning freight income of A\$665 006.

STATESHIPS - CONTAINER PARKS, WYNDHAM AND BROOME

1181. Hon E.J. CHARLTON to the Minister for Police representing the Minister for Transport:

- (1) What was the involvement of Stateships in the establishment of container parks at Wyndham and Broome?
- (2) Which shippers use the container parks?
- (3) Is the State subsidising the cost of the container parks?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Stateships owns a container park at Broome and Kununurra. The container park at Wyndham is owned by the Department of Marine and Harbours.
- (2) The container parks are used for the intermediate handling and storage of containers between the ship and the shipper or consignee. Virtually all containers to or from the Kimberley region are processed through the parks.
- (3) Refer to (1) above.

STATESHIPS - REFITS, REPAIRS AND MAINTENANCE CONTRACTS

1182. Hon E.J. CHARLTON to the Minister for Police representing the Minister for Transport:

- (1) Is the Government running down the maintenance and repair facilities within Stateships and putting an increasing share of its repair and maintenance requirements out to the local private sector or overseas?
- (2) If the answer is yes, which local firms are being or have recently been used for refit, repair or maintenance work?
- (3) Are all contracts for refits, repairs and maintenance subject to a competitive tendering process?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) No. However, the amount of maintenance and repair work which Stateships needs to undertake is expected to diminish with the current transition from large to small ships, and the now ready availability of leased containers for domestic use.
- (2) Not applicable.
- (3) All major work which cannot be carried out by Stateships' own resources is subject to competitive tendering.

TOURISM COMMISSION - KIMBERLEY REGIONAL OFFICER
Kununurra-Broome Transfer

1183. Hon N.F. MOORE to the Minister for Police representing the Minister for Tourism:
- (1) Is it correct that the Kimberley Regional Officer of the Tourism Commission is to be transferred from Kununurra to Broome?
 - (2) If so, -
 - (a) does this mean that the office in Kununurra will close; and
 - (b) why was the decision made?
 - (3) Has consideration been given to locating a Regional Office of the Tourism Commission at both Kununurra and Broome?
 - (4) If so, will this occur and when?
 - (5) If not, why not?

Hon GRAHAM EDWARDS replied:

The Minister for Tourism has provided the following response -

- (1) Yes.
- (2) (a) Yes.
 - (b) To provide the Broome industry with more immediate access to the resources of the Tourism Commission at a time when many operators are experiencing difficulties as a result of circumstances outside their control.
- (3) Yes. This will continue to remain an option, although it is not expected that the region as a whole will be disadvantaged by the relocation initiative.
- (4) The position will be reviewed at the end of the interim 18 month period.
- (5) Not applicable.

LAND - OLD GRAYLANDS TEACHERS' COLLEGE SITE
Residential Lots Development

1185. Hon N.F. MOORE to the Minister for Planning:

When is work expected to commence on the development of residential lots on the old Graylands Teachers' College site?

Hon KAY HALLAHAN replied:

It is understood that LandCorp has not scheduled a commencement date for development of the former Graylands Teachers' College site.

AIRLINES - INTRASTATE AIR SERVICES
Expressions of Interest - Australian-North West Airlines

1189. Hon N.F. MOORE to the Minister for Police representing the Minister for Transport:

- (1) Is it correct that interest has been expressed by companies in becoming involved in providing intrastate air services in Western Australia?
- (2) If so, which companies are involved and what proposals have been put forward?
- (3) Has Australian-North West Airlines expressed interest in providing intrastate air services in Western Australia?
- (4) If so -
 - (a) is the company associated with Australian Airlines; and
 - (b) what proposals has the company put forward?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1) Yes.

(2)-(4)

While individual companies are naturally at liberty to identify themselves or their proposals if they see fit, the Government must treat the names of companies and details of their proposals as commercial confidentialities.

LAND - HEATHCOTE HOSPITAL LAND

Sale and Disposal - Parliamentary Approval Requirement

1192. Hon P.G. PENDAL to the Minister for Lands:

Does the sale and disposal of the Heathcote Hospital land require parliamentary approval?

Hon KAY HALLAHAN replied:

No.

SHARK BAY - SALT PROPOSAL

Useless Loop Extension Application

1195. Hon P.H. LOCKYER to the Minister for Resources:

(1) Has an application for extensions to the Useless Loop operation been made by Shark Bay Salt?

(2) Has approval been given?

(3) If not, at what stage are negotiations at?

Hon J.M. BERINSON replied:

(1) Yes.

(2)-(3)

The Shark Bay Salt proposal was assessed by the Environmental Protection Authority at public environmental review (PER) level. The public review period for the PER ended on 30 October 1990. The PER process will not be finalised until the results of a forthcoming dugong study are known.

The EPA assessment report will possibly be completed one to three months thereafter.

MARINAS - EXMOUTH

Potential Developers - Government Discussions

1197. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Transport:

(1) Is the Government having discussions with potential developers regarding the Exmouth Marina?

(2) Who are those developers?

(3) What is the nature of the discussion?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1) No.

(2)-(3)

Not applicable.

**LOCAL GOVERNMENT DEPARTMENT - WYNDHAM-EAST KIMBERLEY
SHIRE COUNCILLOR INQUIRY**

1199. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Local Government:

- (1) Has the Department of Local Government completed its investigation into matters concerning a councillor of the Wyndham/East Kimberley Shire Council?
- (2) What was the outcome and findings of such investigation?

Hon KAY HALLAHAN replied:

The Minister for Local Government has provided the following response -

(1)-(2)

The matter is still under consideration.

SCHOOLS - GASCOYNE JUNCTION AND SANDSTONE SCHOOLS
Minimum Student Requirement

1200. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Education:

What is the minimum number of students required to keep open the -

- (a) Gascoyne Junction school; and
- (b) Sandstone school?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

(a)-(b)

The continued operation of these two remote schools will be determined not by any minimum number of students, but by their ability to offer a cost effective and appropriately comprehensive and quality curriculum.

SCHOOLS - CARNARVON
Maintenance Cut-back Instruction

1203. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Education:

- (1) Is it correct that instructions have been given to schools in Carnarvon that they are to cut back on all but absolutely essential maintenance work on schools in the area?
- (2) If so, what are the guidelines?
- (3) What is going to be done about the deteriorating conditions of the schools caused by a serious lack of maintenance?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

- (1) All schools have been advised that breakdown and preventative maintenance will be carried out at a slightly reduced level to that in the 1989-90 financial year.
- (2) Guidelines have been issued to principals stating that all faults should continue to be reported but that some less urgent faults will be deferred and that some appliances will be replaced where repair is uneconomical.
- (3) The Building Management Authority will continue to monitor the maintenance condition of all schools for the preparation of future programs. All essential maintenance requirements will continue to receive attention.

SMITH, MR ROBERT - GERALDTON REGIONAL PRISON
Flat Accommodation

1204. Hon P.G. PENDAL to the Minister for Corrective Services:

- (1) Would the Minister advise whether Mr Robert Smith, while a prisoner at the Geraldton Regional Prison, was housed in a flat during his imprisonment and not in the prison?

Hon J.M. BERINSON replied:

See answer to question without notice 851 on 21 November 1990.

CRIMINAL CODE - AMENDMENTS

1227. Hon GEORGE CASH to the Attorney General:

- (1) Has section 87 of the Criminal Code been amended since 1986?
 (2) If so, on which date did the amendment gain the Royal assent?

Hon J.M. BERINSON replied:

- (1) Yes.
 (2) 15 December 1988.

QUESTIONS WITHOUT NOTICE

BILLS - NEW BILLS
Priority Bills Determination

852. Hon GEORGE CASH to the Leader of the House:

I advise the Leader of the House, as he may not already be aware, that a considerable number of new Bills were introduced in the other place today. Also, I remind him that Order of the Day 13 on the Legislative Council Notice Paper deals with sittings of this House.

Will the Leader of the House give an undertaking to meet with both me and the leader of the National Party in the Legislative Council so that we can determine within the next few days the Bills that the Government considers should have priority, in view of my statements when I moved Order of the Day 13?

Hon J.M. BERINSON replied:

I would be happy to do that. I am sure it will be helpful from all points of view. I will be in a better position to contribute to that discussion on Tuesday. I am sure we can find some time then.

ROYAL COMMISSION - ATTORNEY GENERAL AND PREMIER
Ministerial Discussions

853. Hon P.G. PENDAL to the Attorney General:

Was he consulted by the Premier on or before Monday on the question of the Royal Commission?

Hon J.M. BERINSON replied:

Cabinet and ministerial discussions are confidential, as I had occasion to remind the House yesterday. That applies to the present question as well.

ROYAL COMMISSION - TERMS OF REFERENCE
Improper Acts Coverage

854. Hon P.G. PENDAL to the Attorney General:

Will he advise whether the Government is considering including in the terms of reference for the Royal Commission the possibility that the inquiry will cover improper acts?

Hon J.M. BERINSON replied:

The terms of reference are currently being considered. They will become publicly known soon enough.

LAND TENURE BILL - PASTORALISTS

Different Letters - Aboriginal Excisions and Conservation Areas

855. Hon P.H. LOCKYER to the Minister for Lands:

I refer the Minister to a question that I asked earlier this week regarding whether more than one letter had gone to pastoralists. I understood from her answer that a letter had been sent to all pastoralists in Western Australia giving a broad outline of the proposed land tenure legislation. Will the Minister be writing further to people on pastoral properties that will be affected by Aboriginal excisions and conservation areas?

Hon KAY HALLAHAN replied:

I indicated this week that a letter had gone to all pastoralists in the State. The letter outlined the proposals for new legislation. One letter went to about 90 per cent of pastoralists who will be, on application, given automatic rollover to the new tenure once the legislation is passed. There was another letter that went to pastoralists whose properties are affected by conservation areas; another letter went to pastoralists whose properties are affected by Aboriginal excisions; another went to pastoralists whose properties are affected by both conservation and Aboriginal areas; and another letter went to pastoralists in the South West Land Division.

Hon P.H. Lockyer: It's like drawing teeth.

Hon KAY HALLAHAN: I could not understand what the member asked. I thought he asked whether I was intending to send multiple letters to the same pastoralists. If I had understood that the question was whether different letters were to be sent to different pastoralists I certainly would have made the situation clear.

Hon P.H. Lockyer: I am sorry I was unclear.

Hon KAY HALLAHAN: The member's apology is accepted.

We wish to make clear to each pastoralist exactly how the new proposals will affect the particular pastoral lease. Therefore, every pastoralist, barring some hiccup or something being lost in the mail, should by now be very clear about the intentions regarding the particular property.

Ninety per cent of pastoral properties are not affected by any need for excisions for any purpose. Of the remaining 10 per cent, about six per cent are situated in the South West Land Division; we will not roll over those leases into the new tenure. Other arrangements will be made, or those leases will expire in the year 2015. So, about four per cent of pastoralists received one of the different configurations of a letter. It was the tail end of the letter which pertained particularly to them. However, they were given very clear proposals regarding the legislation.

ROYAL COMMISSION - LEGAL COSTS

856. Hon P.G. PENDAL to the Attorney General:

- (1) Has any person within or outside Government been given any undertakings of financial or legal aid assistance for appearances before the up coming Royal Commission?
- (2) If not, has the matter been canvassed within the Government?

Hon J.M. BERINSON replied:

- (1) I refer the member to the guidelines on legal costs which, I believe, have previously been presented to the House. They are guidelines of a standing nature and there has been no discussion so far as I am aware as to how they

would relate to the Royal Commission; but no doubt, in due course, that will have to be considered.

(2) No.

RESERVE 28119 - MINISTER FOR LANDS APPROACH

Town of Cottesloe and North Cottesloe Surf Life Saving Club Response

857. Hon BARRY HOUSE to the Minister for Lands:

I refer to the answer I received today in reply to Question on Notice 117, which related to proceedings against the Town of Cottesloe to divest reserve 28199. What has been the response of the Town of Cottesloe and the North Cottesloe Surf Life Saving Club to the Minister's approach?

Hon KAY HALLAHAN replied:

I ask the member to place the question on notice. I will then seek to provide the response by those bodies, if it has been received.

ROYAL COMMISSION - LEGAL COSTS

Guidelines

858. Hon P.G. PENDAL to the Attorney General:

My question is supplementary to my previous question, and I thank the Attorney General for that information. Can he enlighten the House further on the guidelines on legal costs which he has apparently outlined to the House?

Hon J.M. BERINSON replied:

The answer is, no. The reason is that, from memory, they cover more than a page and a half, perhaps more than two pages.

Hon P.G. Pendal: Was it a tabled paper?

Hon J.M. BERINSON: My memory is that it was tabled.

MINISTER FOR JUSTICE - ACTS OF IMPROPRIETY

Burke and Dowding Era

859. Hon BARRY HOUSE to the Attorney General:

(1) Is the Attorney General aware that the Minister for Justice, David Smith, has admitted in an article in the *Bunbury Mail* that he knew of acts of impropriety and illegality, and of hard facts, during the Burke and Dowding eras?

(2) Was the Attorney also aware of such illegal and improper acts?

Hon J.M. BERINSON replied:

(1)-(2)

I am not aware of the answer or the newspaper report to which the member has referred, and I would not like to comment on it. Frankly, I am not sure, without seeing the actual comment in black and white, what it refers to. However, by the sound of it my impression is that the answer to the second question would be no.

GOVERNMENT RAILWAYS AMENDMENT BILL - AMENDMENTS

860. Hon GEORGE CASH to Hon Tom Stephens (Parliamentary Secretary):

I ask this question of Hon Tom Stephens in his capacity as Parliamentary Secretary handling the Government Railways Amendment Bill 1990. Members will be aware that the Bill was introduced into the Parliament yesterday and I now note the Supplementary Notice Paper contains subsequent amendments to that Bill. Can Hon Tom Stephens advise why the amendments have been found to be necessary and whether they alter the substance of the second reading speech?

Hon TOM STEPHENS replied:

I have had the opportunity of again looking at the second reading speech. The first time I saw that speech was while I was reading it to the House.

Hon P.G. Pandal: Never admit that.

Hon J.M. Berinson: You read it very well though.

Hon TOM STEPHENS: In light of my subsequent discovery that some amendments were not included in the Bill, and at that point not distributed to the House, I was surprised by the grammar and construction of some of the sentences in the second reading speech. Nonetheless, members will understand that the second reading speech was trying to indicate what was before the House, albeit it did not do it very well. Members should now look at the Bill together with the proposed amendments.
