

# Legislative Council

Thursday, 29 August 1991

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

## APPROPRIATION (CONSOLIDATED REVENUE FUND) BILL

### *Consideration of Tabled Paper*

**HON. J.M. BERINSON** (North Metropolitan - Attorney General) [2.33 pm]: I move, without notice -

That pursuant to Standing Order 49(c), the Council take note of tabled paper No 642 (Estimates of Revenue and Expenditure and related papers), laid upon the Table of the House on 29 August.

This motion enables the Legislative Council to examine and debate the Budget papers associated with the Appropriation Bills which are now before the Legislative Assembly. As mentioned by the Premier and Treasurer in her Budget speech, the Budget this year has been framed in a climate of economic recession. I do not propose to detail the economic circumstances which have impacted so adversely on revenues and made the budgetary task this year so difficult. Rather I refer members to the Budget speech, a copy of which is in the distributed Budget papers.

It is a measure of the difficulties faced in framing this Budget that in 1991-92 State taxation collections are estimated to be 11.1 per cent lower in real per capita terms than in 1988-89. On this basis, 1991-92 taxation revenues are estimated to be down by some \$180 million. This Budget therefore restrains recurrent spending.

It has required careful reconsideration of all Government programs and tight discipline on agencies to ensure that services are delivered at the lowest practical cost. However, especially in determining funding for capital works, the Government was conscious of the need to create as many job opportunities as possible, consistent with responsible financial management.

The expenditure programs I will shortly outline seek the right balance for these difficult economic times. While the running costs of the Public Service have been held down, the Government proposes a Capital Works Program which will provide a boost to economic activity. Importantly, the infrastructure, services and support necessary to facilitate economic growth are provided within an environment that seeks to promote private sector activity by keeping Government costs on business through taxes and charges as low as possible.

## REVENUE

Despite the severity of the downturn in State revenues, the Government has rejected the easy solution of increased taxes and charges. That would not have been a responsible course to follow when the community, and the business sector in particular, must not be discouraged by additional Government imposts from increased investment and activity.

This Budget includes no new taxes and no increases in the rates of existing taxes. The Government has also abided by its family pledge. For the third consecutive year, increases in the major domestic utility and transport charges have been held to below the growth in inflation.

Reforms of the Stamp Act and its administration are of high Government priority and a major draft report was recently circulated with the view to finalising recommendations to Government after consideration of public comment. As part of this reform process, transfers of the principal place of residence between spouses in de facto marriages, when the property is being transferred from single to joint ownership, will become exempt from stamp duty. As well, the extra stamp duty currently incurred on an existing loan by a borrower will be removed where this results from a lender's requiring further security. Stamp duty concessions to encourage the development of a secondary mortgage market will also be introduced during 1991-92.

In addition, and following a recent Full Court decision, a Bill will be introduced to amend the Stamp Act to make it clear that land should be valued for stamp duty purposes on the basis of accepted valuation principles. This amendment is intended to do no more than remove the opportunity for stamp duty minimisation. There is no intention of widening the application of duty.

The Government has decided to increase the statutory authority levy on the turnover of the Water Authority and the State Energy Commission from three per cent to four per cent. The increase, which will apply from 1 July 1991, will raise an additional \$21.2 million in 1991-92. It will not result in any lift in charges to consumer. The increase will bring the levy more into line with returns provided by statutory authorities in other States. As a result, Western Australia will become less affected by the Commonwealth Grants Commission process which has effectively penalised us for not extracting a higher return. After allowing for this measure, revenue in total, excluding the finding arrangements in relation to redundancy payments, is expected to increase by 4.7 per cent to \$5 175 million.

### OUTLAYS

The Government has taken the view that in these difficult economic times the public sector cannot be immune from the expenditure discipline and necessary rationalisation that is occurring in the private sector. To contain the operating cost of the Public Service requires a reduction in public sector numbers, as payroll costs represent about 60 per cent of the Budget. As a means of achieving this, a special voluntary severance scheme was announced earlier this month. An amount of \$50 million has been included in the Budget for redundancy payments, funded by borrowings through the General Loan and Capital Works Fund. The net budgetary impact of the scheme in 1991-92 is difficult to determine accurately as it will depend on the final number and timing of acceptance. However, significant ongoing savings will accrue in future, with estimated annual savings in payroll costs amounting to \$35 million for every 1 000 acceptances. Excluding redundancy payments, expenditure from the Consolidated Revenue Fund has been held to an overall increase of 4.7 per cent, or 5.7 per cent with those payments excluded. This containment has not been easy and many departments and agencies will be required to operate with significant real reductions in their budget allocations.

I now turn in more detail to the Government's expenditure initiatives.

### Capital Works

State Governments make their biggest impact on employment through the capital works programs of departments and authorities. The planned total works program in 1991-92 amounts to \$1 305.4 million when redundancy funding is excluded, an increase of \$110.5 million or 9.2 per cent on actual expenditure last year. Highlights include -

- expenditure of \$455.5 million by SECWA and the Water Authority to meet projected demand for electricity, gas, water and sewerage services;

- a planned \$150.1 million Westrail capital works program; and

- expenditure by Homeswest of \$177.5 million, including provision for the construction and acquisition of 1 200 new rental units.

In addition, Homeswest will implement this year a new shared equity home ownership scheme, to be known as Start-a-Home, and will finance some 600 eligible applicants under this program.

Homeswest will also closely examine a number of different options, including joint venture, rental trust and shared equity arrangements, as possible ways of introducing private sector finance into housing for low income tenants. Homeswest will obtain some \$50 million in 1991-92 through one, or a mix, of these options and it estimates that the program will provide around 700 new rental units and generate about 2 000 extra jobs.

Under the programs referred to, and after taking into account the Government Keystart scheme and planned revised funding arrangements with cooperative building societies, the Government will be facilitating some 6 300 loans and/or units of rental construction. This will have a major economic impact. An additional \$420 million will be generated into the construction and real estate industries. Homeswest estimates that this equates to 9 000 jobs in building and related industries.

## Education

Education is a key priority of the Government and features of the Ministry of Education's expenditure programs include -

Total recurrent spending of \$992.8 million on education services, including provision for the appointment of an additional 369 teaching and support staff to meet the increasing needs of primary and secondary schools;

a capital works expenditure program of \$84.5 million for primary and secondary school buildings and facilities; and

a \$35.6 million school maintenance and minor works program, an increase of 66.6 per cent in 1990-91.

The Government's low interest loan scheme to non-Government schools will continue for a further three years and a loan program of \$30.6 million has been allocated to the scheme in 1991-92. The guidelines will encourage joint planning between the Government and non-Government school sectors for the provision of new schools and facilities in growing areas, and the rationalisation of the existing stock of school buildings in both sectors. Because of the subdued revenue growth, some savings measures have been needed to allow high priority education programs to continue. In particular, the Government has decided to suspend the payment of the education allowance. The resultant savings of \$15.7 million in 1991-92 will be directed to urgent Government school maintenance and minor works. Within the budget for Technical and Further Education of \$139.8 million, \$76.3 million will be provided for para-professional training, and a further \$37.8 million will be spent on trades training programs.

## Health

The Health Department's expenditure programs provide for gross capital and recurrent expenditure of \$1 434.5 million. After adjusting for revenues, the actual draw by the department on the recurrent and capital budgets will increase by \$52 million or 4.3 per cent, with the draw on the Consolidated Revenue Fund increasing by 5.1 per cent after allowing for changed accounting arrangements.

## Agriculture

The difficult situation facing many of our rural producers because of depressed farm prices and the protectionist policies of our competitors is a matter of serious and growing concern. Reflecting that concern and the vital importance of our farmers to the State's economy, the Government recently decided to support our rural communities by underwriting the current season's wheat harvest through the wheat equity scheme. It is indicative of the importance which is placed on the State's rural industries that the Department of Agriculture's budget allocation of \$97.2 million - before adjustment for the funding of motor vehicles - represents a significant real increase in State funding. Commonwealth and industry funded expenditure programs have also increased considerably even after allowing for changed accounting arrangements.

The Rural Adjustment and Finance Corporation's budget allocation has been increased by 27.2 per cent, or \$714 000. The extra resources provided will enable the corporation to handle the influx of applications for assistance from farmers in difficult financial circumstances.

## Other Outlays

For these and many other major areas of the Consolidated Revenue Fund Budget and Capital Works Program I refer members to the Program Statement Budget paper and to the Supplement to the Capital Works Estimates. Among other measures are the following items of interest -

An amount of \$34.7 million has been provided for the Department of State Development in its first full year of operation as the central focus for Government in working with industry to increase economic activity in Western Australia.

The Government's commitment to the administration of justice and the enforcement of law and order is reflected in an allocation of \$243.5 million to meet the combined needs of the Police Department and the police licensing and services division. This

represents an increase of 7.9 per cent after motor vehicle acquisitions are taken into account. On a similar basis, recurrent expenditure by the Crown Law Department and the Department of Corrective Services will rise by 9.3 per cent and 6.6 per cent respectively.

The Government has maintained its traditional commitment to the most needy within the community. The Department for Community Services will spend \$123.6 million - an increase of 7.5 per cent - on its recurrent and capital works programs, including provision for the recently announced new initiatives in its young offender program.

A \$5 million contribution will be made to the community sporting recreation facilities fund for the construction of facilities. State contributions are generally made to individual projects on a one-third basis with the other two-thirds coming from the local authority and the community.

The State Government is continuing its commitment to the economic, social and cultural advancement of Aboriginal people in Western Australia. In 1991-92, \$13.6 million has been provided to the Aboriginal Affairs Planning Authority, an increase of 7.9 per cent.

An amount of \$10 million has been allocated in the Capital Works Program for the first stage redevelopment of East Perth.

## **THE FEDERAL RELATIONSHIP AND MICROECONOMIC REFORM**

### **Commonwealth-State Relations**

There has been a significant recent improvement in relations between the Commonwealth and the States, with the Special Premiers' Conference process achieving significant progress in developing a more efficient and competitive economy. Despite these advances, there still remains much to be done to improve the financial relationship between the Commonwealth and the States. In particular, a major objective of the Western Australian Government is to see a reduction in the level of tied grants as a proportion of total Commonwealth payments to the States. In 1991-92, tied grants will represent about 52 per cent of total Commonwealth payments, compared with 41 per cent in 1982-83 and 25 per cent in the early 1970s.

The Government is encouraged by the Commonwealth's stated commitment to reducing the level of tied grants to the States and this is an important item on the agenda of the November Special Premiers' Conference in Perth. At that meeting the Commonwealth and the States will also consider options for reducing the imbalance between the spending and taxing powers of the Commonwealth and State Governments. Currently, the Commonwealth and the States have broadly equal expenditure responsibilities but the Commonwealth has the power to collect around 80 per cent of total tax collections.

A development of major concern to all Western Australians in the area of Commonwealth-State financial relations has been recent calls by New South Wales and Victoria for a review of the principle of fiscal equalisation. Fiscal equalisation gives each State Government across Australia the capacity to provide a standard level of public service provision to its population without having to impose taxes and charges that are appreciably higher than other States. A weakening in its application in determining the allocation of Commonwealth grants to the States would have a significant adverse impact on the Western Australian Government's capacity to provide public services to the community. The disabilities we face in providing those services, including our large land area, our dispersed population, our isolation and our relatively small population would not be adequately recognised. The Western Australian Government will be closely watching developments in this area and strongly resisting any moves to dilute this principle which has underpinned the Federal financial system for almost 60 years.

### **Microeconomic Reform**

Positive action needs to be taken by all Governments to improve efficiency in the delivery of their services. Ongoing changes to the transport of goods and services introduced by the Government include the deregulation of grain and fertiliser transport. Other reviews yet to be finalised include the possible deregulation of timber, and minor and major bulk transport as well as changes to the commercial goods vehicle licensing system.

The Government is also pursuing waterfront reform through restructuring the stevedoring

sector, commercialising port authorities and increasing competition across the waterfront industry. The State's air routes have also been deregulated.

The Government believes that the efficiency of State trading enterprises will be enhanced by requiring them to operate within a more accountable and competitive environment at "arm's length" from government. That course is now being pursued and will include clearly set out targets relating to the financial and operating performance of agencies. The decision to proceed with a privately owned and operated coal fired base load power station at Collie was consistent with the overall aims of this policy and will generate a significant economic benefits for Western Australia.

### BUDGET OVERVIEW

Last year, for the eighth year in succession, the Consolidated Revenue Fund Budget was balanced, with expenditure growth being contained to a mere 2.1 per cent. That result was a remarkable achievement at a time of economic recession, even though we deferred a planned \$25 million repayment of principal on the debt obligation of WA Government Holdings Ltd, and some alternative funding strategies were necessary for some items of a capital nature. In 1991-92, the Consolidated Revenue Fund position is for revenue to increase by a modest 4.7 per cent, with expenditure growing by the same amount if redundancy payments are excluded. Including redundancy payments, expenditure is expected to increase by a further \$50 million or 5.7 per cent in total. This amount will be appropriated from the General Loan and Capital Works Fund, bringing the Consolidated Revenue Fund into balance.

As indicated earlier, the total Capital Works Program will increase by 9.2 per cent, partly due to a heavy carryover of works in progress and to the decision this year to fund departmental motor vehicle purchases from the Capital Works Program. Details of the net financing requirement are set out in the document "Supplementary Budget Information", together with explanatory material to assist in interpreting the figures. I refer members also to the Budget speech.

In conclusion, and despite the recession, Western Australia has much to be confident about. Our economy has out performed all other States in terms of growth and is again expected to grow by well above the national average this year. That is underpinned by development of the State's enormous natural resources and is boosted also by our services industries, including tourism. This Budget provides a basis for that economic improvement. I commend the motion to the House.

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

### ESTIMATES COMMITTEES

#### *Sitting Dates and Times*

**HON J.M. BERINSON** (North Metropolitan - Leader of the House) [2.58 pm] - by leave: I take this early opportunity to advise all members of the arrangements for the sitting times of the three Estimates Committees. These arrangements have been made on the basis of discussion with Hon E.J. Charlton as chairman and after discussions with the Leader of the Opposition. It is proposed that the committees meet on Thursday, 19 September, Tuesday, 24 September and Wednesday, 25 September. In keeping with the arrangements made last year, members should note that sittings of the committees on Thursday, 19 September, will commence at 10.00 am rather than at the normal House time of 2.30 pm and will also, at least in a number of cases, proceed beyond the dinner time on that day. On Tuesday, 24 September, sittings of the committees will commence at 2.30 pm and not the usual House sitting time of 3.30 pm. There will be no morning sittings on that day, in order not to interfere with the regular party meetings on Tuesday. On Wednesday sittings will also commence at 10.00 am and will certainly go beyond the dinner recess.

### MOTION - JUVENILE REMAND CENTRE, MURDOCH PROPOSAL

#### *Moratorium*

Debate resumed from 22 August.

**HON CHERYL DAVENPORT** (South Metropolitan) [3.00 pm]: Before I put forward my

arguments in opposition to the motion, I shall touch on some of the comments Hon Phillip Pental made on this subject last week.

The PRESIDENT: Order! There is some audible conversation in the Chamber that must cease. I am not sure where it is coming from - perhaps we have a ventriloquist in the place. Audible conversations are not allowed in this House and I ask those people responsible to either remove themselves from the Chamber or cease their conversations.

Hon CHERYL DAVENPORT: Hon Phillip Pental referred to a public meeting held on 6 April in connection with the proposed remand centre. He said that almost 3 000 people turned up to tell Hon John Halden, Hon Garry Kelly and Hon Cheryl Davenport that they were not happy with the proposal. I was at that meeting and I would like to know why Hon Phillip Pental was not present. I was listening to the comments made, along with my colleagues in the Labor Party.

Hon P.G. Pental: Did you see the 3 000 people? Can you swear that I was not present?

Hon CHERYL DAVENPORT: Yes, I did see those people and, yes, I can swear that Hon Phillip Pental was not present.

Hon P.G. Pental: You are quite right, I was not there.

Hon CHERYL DAVENPORT: I was with my colleague, Mr Thomas, the member for Cockburn, in whose electorate the remand centre will be sited. It was very interesting to note that, together with Mr Thomas and Mr Ripper, the Minister for Community Services, who was there to explain the whole concept of the remand centre, the meeting was attended by Mr MacKinnon, the member for Jandakot; Mr Shave, the member for Melville; and Mr Lewis, the member for Applecross. It seems that a lot of whipping up was done in the few days preceding that meeting. Hon Phillip Pental suggested that I did not listen to the concerns expressed and, as a result, I would not be a member of this place after the next election. I came to this Parliament because I consider that on many occasions hard decisions must be made; this is perhaps one of those hard decisions. I am prepared to support the Government in this matter.

Hon P.G. Pental: You are very courageous, and I respect you for it.

Hon CHERYL DAVENPORT: Hon Phillip Pental and I both live in the City of South Perth, in which area are sited the Longmore remand centre and detention centre and the Nyandi centre. I live less than a kilometre from those institutions, and I have never had cause for concern. I am sure the same will apply to the residents of Murdoch once the furore about the siting of the institution dies down.

Hon Fred McKenzie: The aged residents have no problem with Longmore either.

Hon CHERYL DAVENPORT: Yes, I am about to refer to that. An article appeared in *The West Australian* on 9 April 1991, under the heading "Longmore not a worry for aged", which stated -

Administrators of aged persons' homes next door to the Longmore juvenile corrective complex in Bentley are baffled by vocal opposition to a planned remand centre in Murdoch.

They say that, based on their own experiences, Melville and Cockburn residents' talk of escaped juveniles breaking into homes and threatening families is an over-reaction.

Administrators of Swan Cottages and Rowethorpe Homes, which house about 1500 people, say the cottages face the same crime problems as other suburbs - none of which are related to Longmore.

"Most of our residents - and we have people in their eighties - don't even know the centre is there," Rowethorpe Homes administrator Keith Middleton said.

Swan Cottages administrator Richard Cleaver -

I understand that Richard Cleaver is a former Liberal member for Swan in the House of Representatives. The article continues -

- said juveniles who escaped from Longmore were unlikely to linger in the area.

I took the trouble to find out whether any escapes had occurred at the Longmore remand

centre during its existence. The person I spoke to said that only one had ever occurred, earlier this year, and it had spoilt their perfect record. The escape had been made not from the security part of the detention centre but from a demountable classroom in the rear of the complex. Apparently, the escapee was in that area at a training session because the centre was overcrowded. That highlights the fact that a new remand centre is needed. I have no difficulty about the proposed siting of the complex.

Paragraph (a) of Hon Phillip Pandal's motion refers to "the failure of the Government to properly consult with the local community when choosing a site in an urban community". I query the meaning of "properly consult". The *Concise Oxford Dictionary* indicates that it means to take counsel from persons or books, take advice from, or seek information from.

Hon P.G. Pandal: Before a decision is made.

Hon CHERYL DAVENPORT: Does it mean that the Government should proceed only if the majority approve? A great deal of consultation has taken place, although the majority might have occurred after the announcement. However, it was on record late last year that the Melville City Council did not want a remand centre sited in its area, which meant the Government was on the wrong foot with the council from the start. Post announcement very extensive consultations and briefings took place with the City of Melville, City of Cockburn and local residents. A public meeting has been held, and local residents have been involved with departmental officers, the Minister for Community Services, the Minister for Planning and the Premier.

Paragraph (b) of the motion refers to the Government's "willingness to relocate the remand centre, if environmental values are affected, but not if people are affected". I want to know how it is suggested that people will be affected. Hon Phillip Pandal and I, who both live in the City of South Perth, have had no cause to be alarmed by the fact that we live close to the juvenile remand centre in that area. Will there be noxious odours, noise or other pollution from this centre? The centre will not be visible from the road, and it will be separated from the nearest residential area by the buffer of the freeway. I do not believe that it will at any time represent a traffic hazard. I do not believe it will affect property values in the area, unless people, such as Hon Phillip Pandal, Mr Lewis, Mr MacKinnon or Mr Shave, talk those values down. I remind members of the property values around Fremantle maximum security prison. They are some of the best real estate values in Western Australia. Property values there have not dropped, except in relation to the economic downturn at this time.

Several members interjected.

Hon CHERYL DAVENPORT: The prison will not be closed until the end of this year. It has been there for a long time.

Several members interjected.

Hon CHERYL DAVENPORT: The statement in paragraph (d) of the motion is not true. That site has always been planned to house a number of Government instrumentalities. There will be a TAFE college. In this year's Budget the first amount of money is allocated for the Murdoch TAFE centre. There will be two hospitals, a private hospital and a public hospital, and also a police station.

Referring to paragraph (e) of the motion, a number of other sites were extensively canvassed but were ruled out. The site which has been referred to most in this debate is the Canning Vale site. I have great difficulty, and I hope Hon Phillip Pandal will also have difficulty, with the siting of a juvenile remand centre next door to one of the State's leading maximum security prisons. The sort of impact on young people who have still to be proved guilty is unacceptable. I thought in Western Australia we waited until people had been proved guilty before putting that sort of slur on their characters. I would not like to see a juvenile remand centre sited next to the Canning Vale maximum security prison.

I think I have covered the arguments which Hon Phillip Pandal put forward. He called for a three month moratorium on the development of this facility. That time has virtually expired, because this motion was put on the Notice Paper some time before the last session concluded. I have no hesitation in opposing it, despite the fact that it has been said my seat might be in jeopardy. These are some of the difficult decisions we as legislators must make, and I have no hesitation in supporting the Government in the course it proposes to take.

**HON DERRICK TOMLINSON** (East Metropolitan) [3.13 pm]: It is with a sense of déjà vu that I listen to this debate, because it has happened before. Not only are the events being recycled, but the newspaper articles likewise are being recycled. Before I respond to Hon Cheryl Davenport's reference to a newspaper article, I remind the House that the original proposal for a juvenile remand centre was at Forrestfield. When the residents of High Wycombe and Forrestfield learned of the Government's proposal they too were very concerned. They were very concerned for many of the same sorts of reasons that the people surrounding the proposed Murdoch centre were concerned. Whether those fears are justified, whether they are false perceptions, whether young people on remand are dangerous or otherwise, the residents in the suburbs surrounding the proposed Forrestfield remand centre -

The **DEPUTY PRESIDENT** (Hon Doug Wenn): Order! I ask those people holding conversations both inside and outside the Chamber to keep them down a little.

**Hon DERRICK TOMLINSON**: Like the residents in the suburbs surrounding the proposed Murdoch centre, they expressed real concerns about their safety, about the effect upon their property values and so on. They organised a public meeting, which was held at the Forrestfield library on Friday, 5 January 1990 at 7.30 pm. I attended that meeting. I am not very good at estimating crowds, but it was intended to hold the meeting in a room within the Forrestfield library. However, that room proved to be too small.

**Hon Mark Nevill**: Where were you?

**Hon DERRICK TOMLINSON**: I was at the meeting. Where was the honourable member? As I indicated, I am not very good at estimating crowds, but the newspaper reports next day described it as a crowd of 800 people, which does not compare with a crowd of 3 000, which Hon Cheryl Davenport referred to. Considering it was 5 January, four days after the New Year break, and considering no notice of this meeting had been given until two days before, it was quite a substantial crowd. Why was no notice given of this meeting? Because the information about the proposed Forrestfield centre was never released and was not intended to be released. It was leaked by a whistle blower; somebody who had access to privileged information realised the consequences of that information and the proposed remand centre upon her community, and she blew the whistle. The High Wycombe Progress Association and the Forrestfield Progress Association within two days called a public meeting which 800 people attended. It was attended by the Minister for Community Services, then David Smith MLA. He was supported by two advisers, Andy Marshall, the project coordinator, and Bob Bassett, who was the project architect with the Building Management Authority. It was also attended by Gordon Hill MLA, the member for Helena, and by Mr Wiebe Tieleman, the President of the Kalamunda Shire; and I too attended.

At the meeting Mr Smith explained that it had not been intended that the information about the proposed Forrestfield remand centre be released. In fact he explained that the Government had intended to release it after the decision had been finalised. He explained that it was the intention of the Government that there be a full and thorough consultation with the local authority after the decision had been finalised.

**Hon Mark Nevill**: How can you do that?

**Hon DERRICK TOMLINSON**: Precisely!

**Hon Mark Nevill**: That is a distortion.

**Hon DERRICK TOMLINSON**: One might describe that as a distortion or as a contradiction. However, it was not my statement; it was a statement by the then Minister for Community Services, that there would be thorough and full public consultation after the decision had been made. He took the people to task because a whistle blower had given information about the remand centre before the Government was ready to release its decision. Yes, it is a contradiction!

**Hon Mark Nevill**: It sounds like innuendo to me.

**Hon DERRICK TOMLINSON**: There is no doubt it is a contradiction. I accuse the Government - I make no innuendo - of duplicity in that matter!

**Hon P.G. Pandal**: Hear, hear!

**Hon Mark Nevill**: Where were you, Mr Pandal, when the meeting was held?

Hon P.G. Pental: Since it was held at Forrestfield I had no interest to be there.

Hon DERRICK TOMLINSON: If we ask, "Where was Mr Pental?" we should also ask the same question of every member of this House. However, it would be more pertinent to ask, "Where were the other members of the East Metropolitan Region?" Hon Peter Foss was elsewhere on parliamentary duty. I cannot tell the House where the three members of the Government were - including Hon Fred McKenzie - when the meeting was held. He was not present and neither was Hon T.G. Butler nor Hon Kay Hallahan.

Hon B.L. Jones: Can you guarantee that?

Hon DERRICK TOMLINSON: I am being diverted. At the meeting when the Minister was asked about the Forrestfield site he explained that the Government had considered other sites. It had considered a site at Murdoch and another at South Lakes; that is, three sites were considered. He pointed out that there was nothing secret about the proposal because the sum of money that had been intended for construction of the first stage had been allocated in the Budget announced in August 1989. So, it was clearly public knowledge that the Government intended to build a juvenile remand centre. It was explained that the Government considered three sites: Forrestfield, Murdoch and South Lakes. The site selection criteria used by the Government, and outlined by the then Minister for Community Services, Mr Smith, included the distance from police stations and courts. In other words, the site had to be within reasonable access of the Children's Court in East Perth; it had to be within 10 kilometres of the Perth GPO; and it had to be close to public transport.

He described public transport in two ways: First, public transport should be available so that parents and the families of the young detainees could visit them and not be inconvenienced in so doing. So, it was reasonably necessary that the juvenile remand centre be close to public transport. However, because many of the juveniles on remand come from country districts and remote areas of Western Australia - some from the Kimberley and the Pilbara - it was necessary that the juvenile remand centre be close to rail and air transport, not merely buses, trains and taxis. In that way, the people who travelled from distant places to visit their children on remand would not be doubly inconvenienced when they got to Perth; hence Forrestfield was a very attractive site because of its proximity to the Perth Airport and to rail transport.

The Forrestfield site met all the criteria, but Forrestfield had one additional advantage in that it was Metropolitan Region Planning Scheme zoned for institutional purposes and had been acquired for institutional purposes by the Government in 1981-82. It is also interesting to note that the site was site M53 from the System 6 red book, Reserve C29880, Forrestfield. It was recommendation M53 in the System 6 report that the site be preserved as wetlands. It had a particular advantage as a juvenile remand centre in that it was zoned for institutional purposes and that it was owned by the Government for other institutional purposes. So, the Forrestfield site was, in many respects a very attractive one.

Hon Fred McKenzie: If it was a System 6 reserve it should not have been zoned in that way in the first place.

Hon DERRICK TOMLINSON: Hon Fred McKenzie would also be alarmed to learn that since that time that System 6 reserve has been turned over to industrial development.

Hon Fred McKenzie: It shouldn't have been.

Hon DERRICK TOMLINSON: I am so glad that the member has the courage to sit and say that. In spite of the Forrestfield site being a suitable site under the criteria described by Mr David Smith, the residents opposed it. The public meeting expressed that opposition vocally.

Hon B.L. Jones: As did the Murdoch people.

Hon DERRICK TOMLINSON: The second aspect of the concern that the residents had was the way in which they had found out about it. They asked why they were not consulted. The Minister told them that they were to be consulted; that is, they were to be consulted after the Government's decision had been made. I am not quite sure what "after the Government's decision had been made" means because the Government's plan for the site was very well advanced. Conceptual plans had been drawn and a firm of architects, David Kelsall, Bradley, Kelsall and Wu, had been commissioned to prepare the plans for the site. They did

that after investing extensively in overseas visits to juvenile remand centres to see what was on offer elsewhere. That firm prepared the plans with that specific site in mind. Because of the System 6 reserve and the nature of it, and because it was wetlands, they included in the plans specific proposals for sewerage and drainage. Not only had the Government progressed to the stage of having detailed architectural plans drawn, it had also engaged Connell, Campbell and Drew to design electronic security for the complex. The planning was very well advanced. No wonder the residents of Forrestfield and High Wycombe were concerned that they had not been consulted.

Debate adjourned, pursuant to Standing Order No 195.

## HUMAN REPRODUCTIVE TECHNOLOGY BILL

### *Committee*

Resumed from 28 August. The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Tom Stephens (Parliamentary Secretary) in charge of the Bill.

Progress was reported after clause 31 had been agreed to.

**Clause 32: Terms, conditions and directions specifically applicable -**

Hon TOM STEPHENS: I move -

Page 59, line 29 - To delete ", unless section 35(1)(c) applies,".

**Amendment put and passed.**

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

**Clauses 33 to 35 put and passed.**

**Clause 36: Suspension or cancellation of a licence or exemption, other than on disciplinary grounds -**

Hon PETER FOSS: I move -

Page 65, after line 15 - Add a new subclause as follows -

(3) Where a suspension, cancellation or revocation has been imposed with immediate effect pursuant to section 36(2)(a) and the licensee has commenced an appeal under section 42 then, unless a Judge otherwise orders, which order may be upon terms including terms as to undertakings by the Commissioner of Health as to damages, such suspension, cancellation or revocation shall lapse or be rescinded at the expiration of 21 days from the commencement of such appeal,

This clause allows the Commissioner of Health to suspend the operations of any licensee. Obviously there has to be such a power in the Bill, but the problem that arises is that there are two ways in which he can do this - either by three months' notice or with immediate effect. The circumstance in which he is to be allowed to do it with immediate effect is where he is of the opinion that imminent harm may occur. Obviously there is a balancing to be carried out and I would not for one moment suggest there would not be circumstances requiring immediate action, but when one leaves matters to be determined by administrative opinion there is always the concern that the opinion may be wrong; the reason may be mala fide or bona fide. That is quite likely, especially in this case where the effect of suspension of a licence will have an extreme financial effect on the licensee.

The protection currently in the Bill for the licensee is an appeal, under clause 42, to the Supreme Court. Owing to the workload of the Supreme Court this may well mean a delay in the licensee's getting his licence appeal heard and determined. There are always competing interests before the Supreme Court and I do not think any matter before that court would not be considered to be urgent by the people involved. The old saying is that justice delayed is justice denied. Anybody given priority in the Supreme Court is given that priority at the expense of someone who is delayed. Therefore the court is always cautious before giving priority to anyone who comes before it, and a person often needs to justify to the court that a matter should be dealt with expeditiously.

This amendment proposes that if a licence is suspended with immediate effect the licensee

can accept that and that is the end of the matter. If the licensee does not accept the suspension he can appeal and time begins to run. That suspension will be revoked at the end of 21 days unless within that time a judge of the Supreme Court orders otherwise. The effect of this would be to ensure that some action was taken by the Supreme Court within those 21 days. It is an indication by this Parliament that it does expect the matter to be dealt with within that period. The court may extend that time upon terms. That means it may put terms in by saying to the licensee, "We will extend the terms of suspension, but you must operate with conditions." The court may impose terms on the Commissioner of Health saying, "You can have your suspension, but if it turns out you are wrong you will have to compensate the person for the loss he has suffered." The idea is to bring the matter urgently before the court so that the particular circumstances can be considered by an independent third party, and it is not merely a matter of the commissioner being able to act instantly and the licensee doing his best to get some sort of hearing before the court. We recognise the need for sudden action but that sudden action could lead to extreme financial hardship and the licensee must be guaranteed rapid access to the Supreme Court in order to have the matter at least looked at by the court to determine whether a suspension should or should not continue, or continue on terms.

Hon TOM STEPHENS: As a prelude to accepting the amendment I must say that clause 36(2) will provide the Commissioner of Health with very wide discretionary power to terminate a licensed activity if he considers it necessary to protect the public interest or to prevent harm. This power is required to protect public health and will allow an immediate response to community or professional concerns regarding a licensee. However, it will not allow the Commissioner of Health, without due process, to terminate a legitimate enterprise which may be worth millions of dollars or essential to the livelihood of a number of people. Therefore, a right of appeal is specified and it is anticipated that this power will be used very rarely. The more usual route to cancel and suspend a licence would be through disciplinary action under clauses 37 to 40. The Government accepts the amendment which will stipulate a time frame in which the matter can be dealt with by the Supreme Court. The Master of the Court will be processing such matters and this amendment will ensure that the delays about which Hon Peter Foss is concerned will be avoided.

Hon R.G. PIKE: I support the amendment moved by Hon Peter Foss which will uphold the principle of individual rights. I hope that it will be a lesson to the drafters of legislation, readers of *Hansard* and members of this Chamber to always uphold individual rights when the opportunity exists for them to be arbitrarily taken away.

**Amendment put and passed.**

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

**Clause 37: Summary determinations -**

Hon TOM STEPHENS: I move -

Page 65, line 17 - To delete "Where" and substitute "If".

Page 65, line 19 - To insert after "and" the word "that".

**Amendments put and passed.**

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

**Clause 38: Disciplinary action -**

Hon TOM STEPHENS: I move -

Page 66, line 28 - To insert after "Council," the following -

or if it appears to the Commissioner that a penalty provided by section 40(1)(a) to (f) may not be appropriate and the Commissioner reports the matter for disciplinary action to the Council,

**Amendment put and passed.**

Hon PETER FOSS: I draw to the attention of the Chamber subclause (3)(a), which relates to self-incrimination, because it deals with similar provisions which I will seek to delete in another clause.

*Progress*

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon Tom Stephens (Parliamentary Secretary).

[Continued on p 4131.]

*Sitting suspended from 3.45 to 4.00 pm*

[Questions without notice taken.]

**HOME BUILDING CONTRACTS BILL***Receipt and First Reading*

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

*Second Reading*

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [4.35 pm]: I move -

That the Bill be now read a second time.

The Home Building Contracts Act 1991 will ensure that for the first time new home buyers and those undertaking home building work on an existing house will have adequate contractual protection. At the same time builders will be secure in the knowledge that public confidence in the building industry cannot be adversely affected by the irresponsible actions of a very small section of that industry.

This Bill results from an extensive process of consultation between the Government, various industry groups, and consumer representatives. It represents the culmination of an exhaustive process of investigation and the fulfilment of a commitment made to the people of this State to provide better consumer protection to those building a home or undertaking major improvements to an existing residence. It also fulfils a commitment to the home building industry to ensure certainty and equity in home building contracts with a view to restoring and maintaining consumer confidence in the industry. This confidence was severely diminished when the home building boom of 1988 revealed problems that resulted in some widely reported failures in sections of the industry. These failures and a concern that they were due to underlying problems led the Government to establish a panel which was charged with carrying out an independent review of the home building industry. The report of the home building industry inquiry was submitted to the Ministers for Housing and Consumer Affairs in March 1989. The inquiry panel reported that although boom conditions had exacerbated difficulties in the industry the underlying problems had existed for many years and would continue to occur. Therefore, recurrence of these industry problems could not be ruled out. Legislation to provide consumer protection and industry stability was recommended. The panel was of the view that some contracts in use within the home building industry were unsatisfactory and disadvantaged consumers.

There is no doubt that for most Western Australians the acquisition of a home is their single greatest financial commitment. It is therefore essential that a contract for domestic building work should be fair and equitable and should not place one party at an unfair disadvantage relative to the other. Such contracts should ensure that both parties are protected from financial loss that may be suffered inadvertently when a contract is not clear or is not fully committed to writing. This legislation arises out of the recommendations of the 1989 home building industry inquiry which found that existing consumer legislation did not provide adequate practical protection for consumers who were entering into domestic building contracts. The panel noted, in particular, the complexity of the industry and the special circumstances that existed. It pointed out that inadequacies in contractual arrangements have resulted in drawn out disputes that have benefited neither party.

The provisions of this Bill also take into account the views of the major industry bodies and other parties with whom the Minister for Consumer Affairs has consulted. For the past two years the Minister for Consumer Affairs has had regular and ongoing meetings with the representatives of the Housing Industry Association, Master Builders Association, and the new home buyers action group. Although negotiations with the industry have been protracted, they have also been very productive. As a result this Bill now ensures that both

parties to a contractual arrangement for home building work will be well protected against unfair or inequitable practices.

The Bill addresses deficiencies in the existing legislation by requiring -

- all contracts for home building work with a value between \$6 000 and \$200 000 to be in writing;
- all variations of such contracts to be in writing; and
- all contracts covered by this legislation to be a fixed price. Rise and fall clauses are not permitted.

Cost plus contracts are excluded from the provisions of this Act except insofar as they must clearly be identified as such and acknowledged in writing by both parties to be a cost plus contract. Other key features of the legislation are -

- a 6.5 per cent limit on deposits;
- progress payments are to be made only for work that has been performed or materials that have been supplied;
- builders must quote the minimum reasonable amount for provisional sums and prime works;
- the defects liability period is extended from 90 to 120 days; and
- the clear responsibilities of owners and builders for obtaining all necessary approvals are defined.

The responsibilities of owners include satisfying the builder that they have clear title to the land and the finance necessary to complete the home building work as set out in the contract.

The home building industry inquiry also pointed out the need for there to be an effective, inexpensive and speedy dispute resolution procedure. This Bill provides for the establishment of a disputes committee to which disputes about home building work can be referred by either party. Provision for the establishment of the building disputes committee which will operate in a manner similar to the Commercial Tribunal but which will be located within the Builders Registration Board is made in the Builders' Registration Amendment Bill which is shortly to come before this House.

In order to ensure that home owners are not involved in unnecessary expense or delay in relation to a home building dispute, builders and owners will be required to approach the building disputes committee rather than the court system if the dispute is within the jurisdiction of the Home Building Contracts Act. An important feature to this specialised disputes committee is that it will have the power to deal with both workmanship and contractual matters relating to home building work throughout the State. This provision will be of considerable assistance to consumers who have previously been required to refer workmanship disputes to the Builders Registration Board while dealing with the Ministry of Consumer Affairs, the Small Claims Tribunal or the court system on contractual matters. Where a home building contract is for work with a value of less than \$6 000 and the dispute is a contractual one, the Ministry of Consumer Affairs will continue to assist consumers. Furthermore, the jurisdiction of the Small Claims Tribunal has been extended to allow it to deal with contractual disputes where the value of the contract is less than \$6 000.

In emphasising that this Bill is designed to meet the needs of both consumers and the home building industry, I bring to the attention of the House the fact that this Bill differs from the Home Building Contracts Bill 1990, in that it incorporates a number of changes suggested by the industry associations and other interested parties. Home building work contracts with a value of more than \$200 000 will not be covered by the provisions of this Bill. A limit has been set to make it clear that this legislation is designed to regulate contracts between home owners and builders, and it does not cover commercial buildings, multi-units and multistorey developments that are characteristically commercial enterprises. Any confusion that might arise if a matter brought before the disputes committee were already before a court has been clarified, and it is now not possible for the same matter to be dealt with simultaneously in two different jurisdictions. Legal representation is now permitted in any dispute brought before the Building Disputes Committee where the committee considers that a party not so represented might be disadvantaged.

A new provision makes it clear that the Builders Registration Board is responsible for instituting proceedings for an offence committed under the Home Building Contracts Bill. This is consistent with the board's existing responsibilities under the Builders' Registration Act. Following representations from the industry associations, the Minister for Consumer Affairs also agreed to seek an amendment to the Builders' Registration Amendment Bill to retitle the Building Disputes Tribunal as the Building Disputes Committee. This proposed change is reflected in the Home Building Contracts Bill before the House.

The legislation also provides for a review after two years of operation. Consultation with both the Housing Industry Association and the Master Builders Association, as well as consumer groups, will form part of this review and is provided for in this Bill. Furthermore, in discussions the Minister for Consumer Affairs had with other associations and individuals who have concerns about some of the provisions in the Bill, she made clear her willingness for the particular issues raised to form part of the terms of reference for this review so that the need for the modification of certain provisions sought can be assessed. I emphasise again that the provisions now contained in this Bill represent the outcome of a long period of negotiation and consultation with industry and consumer groups. Both the Master Builders Association and the Housing Industry Association have now assured me that they support the Bill in its present form. In summary, the principal objectives of the Bill are -

- to provide adequate contractual protection for new home buyers and consumers making major additions to an existing house; and

- to provide reputable builders with an assurance that confidence in the housing industry will not be eroded by an irresponsible minority.

I commend the Bill to the House.

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

## **BUILDERS' REGISTRATION AMENDMENT BILL**

### *Receipt and First Reading*

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

### *Second Reading*

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [4.43 pm]: I move -

That the Bill be now read a second time.

This Bill deals with amendments to the Builders' Registration Act 1939 which will establish the Building Disputes Committee. The disputes committee will form the disputes resolution procedure provided for in the Home Building Contracts Bill 1991 which provides protection for consumers who are building a new home or undertaking building work on an existing residence. It will also provide certainty for both the consumer and the builder entering into a contract.

The Building Disputes Committee will have the specialised function of dealing with home building disputes. The disputes committee provides, for the first time in this State, a single entity which can deal with all aspects of a home building dispute. In the past, consumers and builders were required to seek redress in different forums depending on the type of dispute. For example, under existing arrangements if the home building work under dispute is within the prescribed geographical area of the Builders Registration Board's operations, consumers and home builders in dispute over a workmanship issue currently take that dispute to the board. They cannot do this if the dispute is outside the board's area of operations. Furthermore, if the dispute is concerned with other than workmanship issues, such as contractual matters, the consumer must seek redress through the Ministry of Consumer Affairs, and may be referred to the Small Claims Tribunal or the court system. This avenue is, however, not available to the builder. Often a single dispute has both workmanship and contractual aspects, and the consumer or builder is obliged to pursue his or her grievance through separate forums, involving additional expense. Often the issues are technical and difficult to separate. This leads to additional frustration for the persons involved.

The Building Disputes Committee to be established by these amendments will operate

independently of the Builders Registration Board. The board will, however, continue to deal with the registration of builders. The grounds on which the board may cancel or suspend the registration of a builder will now be expanded to include conviction of an offence under the Home Building Contracts Act 1991. The Builders Registration Board will also now be able to expand its role in policy matters since the disputes committee will take over responsibility for ordering unsatisfactory building work to be remedied. Thus the board will examine, and provide advice on, broad policy issues relevant to the qualifications and registration of builders. As part of its role in monitoring the quality of building workmanship, the board will also be able to make a complaint to the disputes committee which will then investigate.

The disputes committee will also be empowered to take action on a complaint from any person. Any builder or person for whom home building has been carried out may also now ask the board registrar, who will also be the executive officer of the disputes committee, to carry out an inspection of that building work. The registrar will, with the written approval of the disputes committee or its chairperson, be able to act on behalf of the disputes committee in some circumstances. However, the disputes committee will have the power to review any decision or order made by the registrar. These amendments will allow the Building Disputes Committee to deal with home building disputes relating to workmanship and contractual matters which arise anywhere in the State. The disputes committee will be headed by a the chairperson of the Builders Registration Board who will also be legally qualified and will include a representative of the home building industry. Panels of consumer and builder representatives will be established. Nominations to the industry panel will be made by the Master Builders Association and the Housing Industry Association. It will include equal numbers of persons from each association.

The Building Disputes Committee will have the same powers as the Commercial Tribunal; that is, it will be able to issue summons for attendance and for the production of evidence before the disputes committee. It will be able to administer an oath or affirmation and require any person appearing before it to answer any relevant questions. In certain circumstances, appeals against the disputes committee's decisions are allowed to the District Court which will also become the appeal court for appeals against a decision of the board. This will ensure consistency between appeals against a decision of the Builders Registration Board and appeals against a decision of the Building Disputes Committee. By establishing a single body to hear all home building disputes, the amendments represent a major improvement over the present system. They remove the frustrating and costly necessity for a consumer to pursue separate remedies for different aspects of a home building related grievance. I commend the Bill to the House.

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

## CRIMINAL INJURIES COMPENSATION AMENDMENT BILL

### *Receipt and First Reading*

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

### *Second Reading*

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [4.48 pm]: I move -

That the Bill be now read a second time.

This Bill seeks to amend the Criminal Injuries Compensation Act 1985 in two respects. Under the existing legislation, if a person is charged with an offence and acquitted, a claim for criminal injuries can be brought if the assessor is satisfied that the offence has been committed by a person other than a person acquitted of the offence. Alternatively, the Attorney General may certify that the person charged has not been convicted for some technical reason not going to the merits of the case, and the victim may then make application for compensation. However, in limited circumstances it is quite apparent that an offence has occurred, but because of the differing standards of proof in each proceeding, the jury is not satisfied that the person charged was the offender, while the assessor thinks he or she probably was. This has occurred in cases of assault and sexual assault, and a certificate could not be issued because such an acquittal was clearly not merely due to a technicality. The Bill accordingly seeks to amend section 15 of the Act to allow the Attorney General to

certify that, notwithstanding an acquittal, a claim may be made where, in the particular circumstances of the case, it would be unjust if the person making the claim was not eligible to make an application. The provision gives the Attorney General a wide discretion, as it was thought that any amendment which simply dealt with the difficulties in identification cases would not adequately deal with the variety of issues which can arise in criminal matters. It is not intended to undermine the general principle that the Act is concerned with criminal injuries only; the Bill will allow injustice to be avoided in rare cases.

The Bill also introduces a new section 38A and also amends section 39. These amendments streamline the procedure of recovery of criminal injuries compensation by the State from an offender where the offender is prepared to pay on receipt of a letter of request from the Under Secretary for Law. Such a voluntary repayment can then be received without the need for a formal application to the assessor. I commend the Bill to the House.

Debate adjourned, on motion by Hon Derrick Tomlinson.

## **WATERFRONT WORKERS (COMPENSATION FOR ASBESTOS RELATED DISEASES) AMENDMENT BILL**

### *Receipt and First Reading*

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

### *Second Reading*

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [4.52 pm]: I move -

That the Bill be now read a second time.

The Bill proposes to amend the Waterfront Workers (Compensation for Asbestos Related Diseases) Act which came into effect on 5 December 1986 and represented the Government's response to urgent submissions by the Asbestos Diseases Society, trade unions and individuals involved with waterfront workers who contracted mesothelioma and asbestosis. The Act recognises the casual employment arrangements which existed in the stevedoring industry prior to 1968 and the consequent problems waterfront workers involved in handling asbestos experienced in identifying the responsible employer to secure an entitlement to workers' compensation for their disability.

Section 4 of the Act provides for payments to be made from the employers' indemnity supplementation fund to workers who can establish that they were employed in the loading or unloading of ships carrying asbestos where it was not known who was the last employer in the employment which caused the disability. Section 9 also empowers the Workers' Compensation and Rehabilitation Commission to initiate recovery action against any employer or insurer identified as having a liability under the Workers' Compensation and Rehabilitation Act, with moneys recovered to be returned to the fund.

Section 41 of the Workers' Compensation and Rehabilitation Act, however, stipulates the last relevant employer is liable but may join others if it is alleged the disease was contracted while the worker was in the employment of some other employer. In practice, the commission has been prevented from taking recovery action against any employer because the last employer in the relevant employment cannot be identified, due to the casual employment arrangements for waterfront employees which existed prior to 1968. As a result, employers of waterfront workers who contracted asbestos diseases have escaped their just liability to finance the compensation paid. This problem has been fully examined by the Tripartite Labour Consultative Council. The council has supported an amendment to the Waterfront Workers (Asbestos Related Diseases) Act to provide that employers, their insurers or owners of any ships which can be identified as having carried asbestos in or out of Western Australian ports be subjected to recovery action by way of contribution to a levy which reimburses the supplementation fund for compensation paid from the fund to asbestos disease victims. This Bill proposes that the commission be empowered to proceed against employers or owners of any ships which carried asbestos in or out of WA ports, without having to establish the identity of the last relevant employer of any worker. This will help ensure all claims paid to casual waterfront workers affected by asbestos related diseases can be recovered from relevant shipowners and insurers and paid back to the supplementation fund.

The amendments proposed by the Bill constitute an improvement designed to reflect the intention of the original legislation that those employers responsible for the incidence of asbestos diseases among waterfront workers should pay the compensation, rather than employers in general. I am sure that all members will agree that this legislation represents a fair and necessary adjustment to the Act. I commend the Bill to the House.

Debate adjourned, on motion by Hon Peter Foss.

## HUMAN REPRODUCTIVE TECHNOLOGY BILL

### *Committee*

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Tom Stephens (Parliamentary Secretary) in charge of the Bill.

#### **Clause 38: Disciplinary action -**

Progress was reported after the clause had been partly considered.

Hon PETER FOSS: I was one of the delegates to the Centenary Constitutional Conference held in Sydney in April. One of the matters that came up for discussion was whether Australia should have a bill of rights. Interestingly there was substantial agreement among delegates in favour of a bill of rights for Australia. It is not a view that I share because the real guardian of the rights of the individual is the sentiments in the minds and hearts of the people of any country. It is no coincidence that Russia for many years has had one of the most embedded bills of rights, and the only reason it is now able to gain some of those rights is that that has been instilled as an idea in the minds and hearts of the people of the Soviet Union.

I have always believed that we have had a long history of guarding the rights of the individual and that it is the Parliament which should be responsible for ensuring that those rights are sustained. Probably more than anything else it is this House of the Parliament which has been the guardian over many years in ensuring the individual rights of the people. Be that as it may, this constitutional conference which was attended by a very wide range of people, many holding high judicial or parliamentary office and high positions in business and community groups, was in substantial agreement that occasionally we did need a bill of rights to protect the people from Parliament. From time to time Parliaments have shown a tendency not to have regard for the rights of the individual and to pass legislation which infringes on those rights. We in Australia have been among the worst infringers for many years. The Commonwealth Parliament regularly used to pass very poor quality legislation which infringed on the rights of the individual. However, I am pleased to say, owing to the efforts of a Senate Standing Committee, that has ceased to be the case. The Senate Standing Committee on Scrutiny of Bills has established a set of guidelines on what is not acceptable by way of infringement of individual rights. These guidelines are sufficiently established that one seldom sees legislation put up which does not comply with these guidelines. The constitutional conference had difficulty establishing which rights would be included in the bill of rights. It settled down to there being certain rights which nobody questioned; that certain rights were so fundamental that they needed to be protected. It is interesting that one of those rights that everybody agreed needed to be protected was the right not to be forced to incriminate oneself. I must agree that it is a very important right, and it has been recognised in the American Constitution. It was placed in that Constitution by the fifth amendment and those who follow American television will have noticed people "taking the fifth", which means they have the right not to incriminate themselves. It may be that some people do not believe that right is important, and that some believe it can be lightly set aside for administrative convenience because they foresee that problems may arise if it is not set aside. I have considerable difficulty in setting aside the right not to incriminate oneself. It has been suggested to me that this Bill is an example of where it is important to set aside that right against self-incrimination. I cannot agree. Anybody who urges that there be no such right against self-incrimination must explain why a person cannot be convicted out of the mouth of others. The rules that have been placed in this Bill, whereby inspectors can require information, are such that if a person has been breaking the law, it will be possible to convict that person out of the mouths of others. For example, the industries with which we are dealing will be extremely expensive. I do not for one moment believe that single

practitioners will practise in their own names. I believe that corporate bodies will be involved and a principal or principals, as well as other people, will be employed. The Government will be able to use the legislation to require those employees, or even the principal who is employed, to answer questions about any procedure that has been carried out. The employee cannot be prosecuted on the basis of the answers to those questions, but the answers will provide the basis for the prosecution of others. It is a better way of obtaining information from people if they know that by giving information they personally will not be prosecuted. The technician who has been instructed by his employer to carry out a procedure that is forbidden under the legislation may be approached and asked to answer questions. If that person knows that he will not be prosecuted personally, I am sure he will be more prepared to tell the truth and provide the necessary evidence to convict the employer. That is perfectly proper. In fact, this device has been used from time to time by the Crown Law Department. When it wished to gain evidence against a person, it would offer immunity from prosecution to a minor functionary involved in the crime.

However, I object to the requirement contained in two clauses of the Bill that a person answer questions about his own criminality, and to the fact that that evidence can be used to convict him. I find it particularly objectionable because of the way it has been phrased in this Bill. It goes through the procedures where a person is normally required to answer questions, of pretending that, having answered those questions, the person is at no risk because the answers cannot be used against him except in certain circumstances. The usual circumstance in which that evidence could be used would be to prosecute a person for giving a false answer. However, the Bill will allow the evidence to be used for proceedings instituted in accordance with this legislation. The inclusion of the words in subclause 3(a) means that there is no reason at all for the exception. I cannot see that the practical effect of prosecutions under this Bill requires this. I believe that the functional way in which it will work does not require that change. More importantly, I do not see the likely mischief that would justify our departing from important laws.

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

**Clauses 39 to 53 put and passed.**

**Clause 54: Powers of authorized officers -**

Hon PETER FOSS: I move -

Page 93, line 28 - To delete subparagraph (a).

This is another example of the same provision. Whereas the previous example related to a disciplinary tribunal, this one relates to inspectors. The net result of this clause is that an inspector may come onto premises and ask a person whether he has committed an offence under the Act. That person is obliged to answer the question. Having answered the question, his answer may be used against him as evidence of that crime. That is fundamentally in complete breach of the principle that one should not be forced to incriminate oneself. I have not yet heard any reason for including this provision.

We are dealing here with the type of industry in which it is most unlikely that other than corporate bodies will be involved and it is most unlikely that a single practitioner will operate on his own. I see no problem from a practical point of view but from a point of principle I see every problem with the Bill as it stands. If a problem arose as a result of passing this Bill after amending it as I have suggested, that is the time to come back to this Parliament to argue this principle. I have extreme difficulty accepting that principle, but at least there would be a practical problem that could be raised to explain why it should be applied. I think the first prosecution brought will fall down because of the definition of "cloning". Leaving that aside, the Government has not raised any problem here that I believe will in practice be incapable of being fixed purely by going to the people involved and asking them what happened and then prosecuting the licensee and suspending his licence. I do not believe a particular individual should be able to be forced to give an answer on which he or she can be prosecuted. If this Parliament is not prepared to stand by principles, then I may have to change my view about whether the time has come for a bill of rights in Australia.

Hon TOM STEPHENS: The amendment moved by Hon Peter Foss contains an element with which I am comfortable; that is, the one which I define as new subclause (6) and which endeavours to ensure that reasonably protective requirements are imposed upon investigating

officers to ensure they note their reasons for pursuing an investigation. I indicated to Hon Peter Foss earlier that I am prepared to accept the amendment. He has identified a principle that is important; that is, the principle that a person should not unnecessarily be asked to answer questions that could subsequently be utilised in a prosecution against that person.

Hon Peter Foss: I do not think that the principle contained the word "unnecessarily".

Hon TOM STEPHENS: I have added that word. This Parliament had to address this issue on a number of occasions. Occasions have arisen when having assessed that principle we have come to a different conclusion from that Hon Peter Foss would like us to adopt tonight. Had Hon Peter Foss been here in 1987 he would have heard debate on the issue of incriminating evidence in relation to the Gaming Commission Act, which specifically allowed for such a situation. We thought that the gambling issue was of sufficient importance to create a circumstance where an investigating officer could examine the operator of a casino, ask him or her questions and on the basis of answers given prosecute that operator. We felt that gambling was such a recent innovation in the community -

Hon Derrick Tomlinson: Legalised gambling!

Hon TOM STEPHENS: Yes. We felt that casino gambling was such a recent innovation in the community that we should implement protections and regulations in such a manner as to guarantee we would not have problems with it. That was the intent of the Parliament at that time. We understood the principle involved but took a different tack. I characterise that as a concern about filthy lucre, gambling and the like.

At the moment we are dealing with legislation of a much more fundamentally important nature to our society; that is, the origins of life in our community. We are dealing with legislation governing in vitro fertilisation and a circumstance where laboratories will have the opportunity to tamper with life at its earliest stages. We are endeavouring to say to the operators of those laboratories that we are placing on them an obligation to abide by certain standards - that we will not countenance cloning, production of hybrids or a range of other activities which could be conducted in the laboratory and which society considers unacceptable. Human-animal hybrids are considered unacceptable by society.

There is nothing in this Bill that is not presently scientifically possible. In such circumstances the community is right to be apprehensive about the arrival of this new form of technology. In the context of that apprehension the community is asking us to implement extraordinary measures in this area to ensure that we put in place a Statute that not only represents an extraordinary deterrent to those technicians, but also provides an opportunity for their activities to be policed effectively. The Bill in its present form represents an extraordinary deterrent because any technician will know that under this clause he or she can be examined by an investigating officer, as outlined by Hon Peter Foss, and be asked, "What have you been doing?" If the technician, who is obliged to answer yes or no, is asked the question, "Have you created a hybrid?" and answers, "Yes," he or she can be prosecuted on the basis of his or her own evidence. That is an extraordinary provision. It is not a step towards an extraordinary circumstance that is taken lightly by the Government, which believes the community is asking for extraordinary deterrents to be in place in this powerful legislation.

The Gaming Commission Act contains this provision, which this House saw fit to pass and which dealt with similar circumstances. The relevant section states -

A person is not excused from giving information or producing books or any other thing when required to do so under this Act or under any other written law relating to gaming or betting on the ground that the information, books or other thing might tend to incriminate him, but his answer to any question asked, his giving of any other information, the production by him of any books or other thing or his compliance with the requirement in any other respect is not admissible in evidence against him in any criminal proceedings, other than proceedings under this Act or that other written law.

That provision enables a prosecution under that Act, as this provision will allow a prosecution under this legislation. It is true that fundamental rights are at stake here, but it is when such fundamental rights come into conflict that the community says, "We do not want any tampering with this early stage of life."

Hon Peter Foss: It is not saying that. You are doing this for the convenience of prosecution.

Hon TOM STEPHENS: The community is saying, "We do not want any tampering with this early stage of life." We recognise that this is an area of almost microscopic dimensions where the information about what is going on is available perhaps to only one person, the technician operating with a microscope, perhaps dealing with cloning, the creation of hybrids, or a whole range of other things that the community and the code might consider unacceptable. The community wishes to protect that early stage of life from tampering, being destroyed or being created in new ways of eugenics as mentioned by Hon Muriel Patterson in her reference to her concerns about the activities of Hitler's Nazi Germany.

Hon Peter Foss: You are not suggesting that I am condoning that, are you?

Hon TOM STEPHENS: I am not for one minute suggesting that Hon Peter Foss is condoning it. I am putting to him the sensitivities of those of us -

Hon Peter Foss: It is a monster piece of legislation.

Hon TOM STEPHENS: Hon Peter Foss knows that I recognise his integrity in presenting his case; I hope he will recognise my integrity as I present the Government's case. We see a balance such as we often see in Statutes. In this context we are balancing the public good against the rights of the scientist. We must also balance the right of the individual life form which has been established in the Petri dish to be treated with respect by the community and by the technicians involved.

One of the fundamental offences created by this legislation deals with the question of the intent of the technician. At page 31 of the Bill is a provision obliging the technician to do only such things to the embryo as are therapeutic in intent. The only way one will be able to understand what is going on in the mind of the technician dealing with a particular test tube will be to ask him his intention. If asked whether it was therapeutic and the technician says, "No, I was experimenting", he would be prosecuted under this Bill. Since hearing Hon Peter Foss' concerns I have had the opportunity to raise the issue with a number of my colleagues and others. I have spoken to members who have had legal training and experience; members who have worked in the courts.

Hon Peter Foss: There are not many of those around, are there?

Hon TOM STEPHENS: They have often come across the situation -

Hon Peter Foss: I can think of only one.

Several members interjected.

The CHAIRMAN: Order!

Hon TOM STEPHENS: Say, for instance, that one is dealing with the Police Act. A policeman may be inquiring into the illegal use of a vehicle and he can ask a person whether he was driving his car the previous night. The person is obliged to answer that question. If he does not answer, he can be prosecuted on the assumption that he was driving the vehicle at the time of an accident.

Hon Peter Foss interjected.

Hon TOM STEPHENS: Let me finish, because I did not interrupt Hon Peter Foss. In liquor licensing, and in other areas of licensing where rights and privileges are conferred by Statute on licence holders, similar provisions to these apply. Once a right is conferred on a licence holder, he can expect to be subjected to scrutiny and he can expect to have to respond to questions put quite legitimately to ascertain whether he has been upholding the conditions imposed upon him as a result of holding that licence. We seem to be dealing there with something much more trivial than what we are dealing with in this legislation. Here we are dealing with life in its earliest stages. We are dealing with the opportunity to allow into this community life forms. If technicians are left to run riot in this area, we as a community must be able to say no. Many things, for instance hybrids, may be involved if we do not.

Let me turn the argument back on Hon Peter Foss. He says that if a problem was occurring down the track where we could not obtain a prosecution as the position stands now, we could come back to the House and fix it up. I put it to the honourable member that we are dealing with a rapid change in science and technology. The community is apprehensive about that

change, and we are trying to put a brake on it so that we do not go down that path further than is necessary. We are taking extraordinary measures in this legislation. If we find that all is going well, there will be no need for provisions such as these because the technicians will not be taking advantage of the Act. We can then come back and remove the unnecessary and extraordinary deterrent. But at this time in our community's apprehensiveness about this technology the Government wishes to persevere with keeping paragraph (a) which Hon Peter Foss would have us delete. We want it retained as a strong deterrent and as a potent weapon for policing the provisions of this Act. I hope that I have persuaded not only Hon Peter Foss but also other members opposite to retain this safeguard.

Hon J.N. CALDWELL: I have a question to ask Hon Peter Foss, and it concerns the deletion of paragraph (a). He bases his argument on a person's having to answer questions put to him by an officer, the answers to which might incriminate him. Can Hon Peter Foss explain where in paragraph (a) a person has to answer a question put to him by an officer, the answer to which might incriminate him? Hon Tom Stephens said the Casino Control Act provides that an officer can ask a person to answer questions, but I cannot see where this is provided for in paragraph (a).

Hon PETER FOSS: The clause as a whole starts off in subclause (1) -

An authorized officer, at any time, may -

And it goes on -

- (b) require any licensee, or any person who is apparently in a position to do so, to . . .
- (ii) answer any question put to that person by the authorized officer on such a matter;

"Such a matter" refers back to subparagraph (i), which reads -

- (i) provide any record or other information, or any assistance, reasonably required by the authorized officer relating to any matter with respect to activities to which this Act may apply carried on at any such premises;

That is where it comes from. Subclause (4) says -

A person is not excused from complying with a requirement under this section to answer any question or producing any thing on the ground that the answer to a question put to the person or the production of that thing might incriminate the person or render the person liable to a penalty, but an answer given by a person pursuant to a requirement under this section is not admissible in evidence against the person in any civil proceedings or in any proceedings for an offence . . . under this Act;

My concern is this: During the French Revolution, Robespierre went around cutting off people's heads without trial because he saw it as being one of the most useful things he could do to restore the morality and purity of the French people. It has long been the history of any infringement on the rights of the individual that it is always done for the best of reasons. People always use the best of reasons to justify throwing aside a principle; and the principle is not, as stated by Hon Tom Stephens, that a person should not be unnecessarily required to answer questions so as to incriminate himself: The principle is that a person should not be required to answer questions so as to incriminate himself. I do not know of anybody who states the principle otherwise. What Hon Tom Stephens is proposing is that he set aside that principle, and he says he has a good reason. He should not restate the principle and say he is not setting it aside but merely honouring it. He is not merely honouring a gloss on that principle, he is setting it aside. I for one will not go along with it, and if I had been in this House in 1987 I would not have gone along with it then, because I regard myself as a liberal and, as a liberal, I have certain important things that I respect, one of which is the rights of the individual. I do not lightly set aside the rights of the individual. That may not be the basis upon which Hon Tom Stephens proceeds but it is the basis upon which I proceed.

Furthermore, I would need far more justification to set it aside than Hon Tom Stephens' saying he wishes to send a message to people in the community to deter them from making hybrids. I believe this legislation deters people from making hybrids. It still permits the Government to ask people whether they have been making hybrids; it still permits the Government to prosecute them for not telling it the truth about that, or for misleading it about

that. All of those things can be done with the amendments I have moved. The Government can take away those people's licences, because I did not move an amendment to the earlier disciplinary procedures. Those people can be prevented from practising, but Hon Tom Stephens should not set aside the principle. I cannot allow my name to be associated with what Hon Tom Stephens is doing here, and I have not heard from him today anything to justify it, other than some namby-pamby suggestion that if we do not agree to this provision we would have hybrids all over the place. It is absolutely certain that one thing we would have is a bad law, one which overrides principle without Hon Tom Stephens' being able to give me any real reason for doing so. I believe that from a practical point of view the Government will not be prevented from prosecuting the licensee or a number of people, nor from stamping out the practice; but it will definitely be putting a bad law on the Statute books.

Hon P.G. PENDAL: If the debate on the whole of the Bill was to bog down anywhere, or at one of two or three places, it was inevitable that this would be one of them. I have listened to the argument put by the Government, and to that put equally persuasively by Hon Peter Foss. I intend to support the Government and to vote against Hon Peter Foss's request for the deletion. I will comment on matters that arise from what Hon Tom Stephens and Hon Peter Foss have said because both of them argued from the vantage point of some fairly fundamental rights within the law. There are very few absolutes in the law and in civil rights per se. For example, we would claim to have the right to worship. Not even the most strident unbeliever in our liberal democratic society would deny a person's right to worship if he or she wanted to, but we put limitations on that. We say that a person cannot worship in the middle of the freeway at 8.30 on a Monday morning.

Hon Fred McKenzie: It is too dangerous.

Hon Garry Kelly: Unless you wish to make a sacrifice.

Hon P.G. PENDAL: Members will see the point I am making, albeit an exaggerated point, which is inevitably what occurs in this case. We respect a person's right to worship but it is not an absolute right; for example, it does not override the Road Traffic Code. We put a limitation on what is otherwise a very deep-seated belief on the part of members of our society that people have the right to worship. We put limitations on other so-called fundamental rights as well. Perhaps no greater right exists in any human being than the right to free self-expression. What is the thing that has separated us as a society from the worst excesses of the Stalinist regimes and those regimes which are collapsing around the world? In the end it is the right to stand up somewhere and say what we believe, to express a view that might change a law. So the right to freedom of expression is utterly fundamental, but that right has limitations on it too: In our society one is not allowed to go out and express a view that is libellous. Again a fundamental and important right has an impediment placed in its way, because society does what Hon Tom Stephens correctly said: It seeks to balance the fundamental right of one person to do one thing while ensuring that that does not interfere with someone else's right to do another thing.

I return to the first example I gave: A person's right to worship is respected by our society but not so that the other person's right to go to work free from running people over on the freeway is interfered with. Therefore, I say to Hon Peter Foss - who, I know, puts his view forward not just as a person who has come out of the law but as one who passionately believes it - that those things are never absolute. I could give other examples. One that readily comes to mind is the right to assemble, which again is about as fundamental as one can get in a free society because it allows people to do what people did outside this place the other day, to the embarrassment of the Government. The Government had to wear it because it was the people's right to do it that way. However, it was not an absolute right.

Hon Garry Kelly: It would have been a bit hard to do it under section 54B.

Hon P.G. PENDAL: Yes, and it is interesting that at the moment we are debating a proposed section 54. That was not lost on me because, like Hon Peter Foss, I take seriously what he is saying and, in all fairness, what the members of the Government are saying. This is one of the good occasions in the Parliament when we are talking about something to which we all subscribe but about which we have a disagreement. In this case it is a disagreement about how to preserve some rights in order not to impede others in expressing other rights.

So, stripped of everything else, I implore members, particularly those on the Opposition side, to consider the argument I have put; that is, that nothing in our environment is left without a qualification attached to it. If we were doing something exceptionally diabolical to the person affected by clause 54(4), I would be moving more slowly down the path of supporting the Government in retaining this part of the Bill. However, this provision is not extreme or diabolical. It is not an argument to say that we have done it on other occasions, therefore it is capable of being done now. On occasions in this place I have wondered out aloud, along with other members, where the voice of the Law Society was on issues concerning important fundamental human rights. That is a criticism not of the Law Society but of Hon Peter Foss' argument regarding absolutes.

It is ironic that we are talking about a moral/ethical matter here, and not about dogma. We are talking about legislation. Dogma is for other people to entrench in their laws. Given the circumstances in which the Government sees the application of this subclause, it is a justifiable limitation. Hon Tom Stephens has correctly spoken about the central issue of people fiddling with or abusing the life process. It was regarded as acceptable for the Parliament to discuss these aspects of the gambling industry, and there is no more fundamental and profound human activity than the creation of life. This is an occasion on which it is more than permissible to discuss these issues. As the Parliamentary Secretary said, this is an invitation for the Parliament to deliver a message to the people involved in the relevant laboratories of the severity of this issue. In that case they will have a clear understanding of where the Parliament stands.

I respect Hon Peter Foss' argument; however, I will support the Government for no better reason than that fundamental rights in our society are rarely, if ever, absolute and unqualified. Safeguards are built into the legislation. Extra safeguards will be created if we leave the clause as it is and adopt Hon Peter Foss' second proposition of proposed new subclause (6). I implore the Chamber to go along with the Government. I have no difficulty with doing so. I know that people in the community who have been advising me on this would be advising members to do the same thing.

Hon J.N. CALDWELL: I thank Hon Peter Foss for providing the answer to my previous query. He based his argument for deleting subparagraph (a) almost completely on the possibility of a person being incriminated when asked questions by the authorised officer under subparagraph (b). He indicated that paragraph (b) will result in a person being obliged to answer questions put to him by an authorised officer on such a matter. Why does the member not want to go further and take that part of the clause out as well? If one part is to be removed, why not remove the whole clause?

Hon PETER FOSS: We are dealing with incriminating oneself. If one answers questions and it is not possible to be prosecuted through those words, it is not possible to incriminate oneself. That is the effect of it. Criminal law regards that such words were never spoken; however, it enables one to find out what has happened from an administrative point of view. We dealt with this problem recently with the Evidence Act; that is, the question whether someone should be forced to answer a question and whether the answer can be used against that person. The standard warning offered by the police is, "You are not obliged to say anything because anything you say may be used in evidence against you in a court of law." That warning is to remind people that they do not have to say anything. If this subclause is removed, the words will not be able to be used against a person.

Competing rights were raised by Hon Phil Pendal; but no competing rights are involved in this issue. The right not to incriminate ourselves is a right given by society, and if we allow that right it will not impinge on any other person in society. The provision is for bureaucratic convenience - we are deciding how easy it will be for bureaucrats and prosecutors to prove a case. That is the concern I have. I have made my position clear regarding this principle. On many occasions rights are seen to be competing with each other; however, that is not the case with this provision.

**Amendment put and a division called for.**

**Bells rung and the Committee divided.**

The CHAIRMAN: Before the tellers tell I give my vote with the Noes.

**Division resulted as follows -**


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Ayes (9)		
Hon George Cash	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon Muriel Patterson	(Teller)
Hon Peter Foss	Hon R.G. Pike	
Hon Barry House	Hon Derrick Tomlinson	

Noes (16)		
Hon J.M. Berinson	Hon Reg Davies	Hon P.G. Pandal
Hon J.M. Brown	Hon Graham Edwards	Hon Sam Piantadosi
Hon T.G. Butler	Hon Kay Hallahan	Hon Tom Stephens
Hon J.N. Caldwell	Hon Tom Helm	Hon Fred McKenzie
Hon E.J. Charlton	Hon B.L. Jones	(Teller)
Hon Cheryl Davenport	Hon Garry Kelly	

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Pairs	
Hon W.N. Stretch	Hon Bob Thomas
Hon D.J. Wordsworth	Hon John Halden
Hon P.H. Lockyer	Hon Doug Wenn
Hon Murray Montgomery	Hon Mark Nevill

**Amendment thus negated.**

Hon PETER FOSS: I move -

Page 94, after line 4 - To add a new subclause (6) as follows -

- (6) Notwithstanding anything in this section to the contrary, the powers conferred hereunder shall only be exercised at reasonable times and at reasonable intervals unless the authorized officer has good grounds or a reasonable belief for doing otherwise and has prior to exercising the powers other than at reasonable times and intervals recorded his grounds or beliefs in writing and signed that record and had his signature witnessed in writing, noting the date and time of signature. The authorized officer shall place his record of grounds upon a register kept by the Commissioner of Health for that purpose as soon as practicable.

This is another procedural amendment. The Commonwealth law generally requires people to go through a much more formal procedure to ensure that rights of entry and seizure are not exercised arbitrarily. It requires a warrant to be taken or some other form of complaint sworn before powers of entry can be used. What I propose is novel and administratively a lot simpler. First, there is a requirement that the power be exercised at reasonable times and at reasonable intervals. However, it allows reasonable time and reasonable intervals to be bypassed where an officer has good grounds or a reasonable belief. The two are slightly different in their substance. However, he must record what are the good grounds or reasonable beliefs and have someone witness that record and note the date and the time. The officer must make up his mind and make a record of how he made up his mind so that, if a question later becomes relevant as to whether he had good grounds or reasonable belief, that record has been made and kept by the commissioner. It should be a fairly simple process because all he has to do is write it down and the final reporting is done at a later stage.

**Amendment put and passed.****Clause, as amended, put and passed.****Clauses 55 and 56 put and passed.****Clause 57: Averments, and other evidentiary matters -**

Hon PETER FOSS: I move -

Page 98, lines 12 to 15 - To delete subparagraph (c).

This is the amendment to which I referred in the second reading debate as being the Helena Valley-Boya type fix.

**Amendment put and passed.**

Hon PETER FOSS: I move -

Page 99, lines 13 to 16 - To delete subclause (11).

This amendment is also accepted by the Government.

**Amendment put and passed.**

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

**Clauses 58 to 63 put and passed.**

**Schedule put and passed.**

**Preamble put and passed.**

**Title put and passed.**

**Bill reported, with amendments.**

### **ADJOURNMENT OF THE HOUSE - SPECIAL**

On motion by Hon J.M. Berinson (Leader of the House), resolved -

That the House at its rising adjourn until Tuesday, 10 September 1991.

### **ADJOURNMENT OF THE HOUSE - ORDINARY**

HON J.M. BERINSON (North Metropolitan - Leader of the House) [5.57 pm]: I move -

That the House do now adjourn.

#### *Adjournment Debate - Budget - School Maintenance Program*

HON MAX EVANS (North Metropolitan) [5.58 pm]: The Estimates of Revenue and Expenditure that were tabled today in both Houses are an attempt to perpetrate one of the greatest frauds on the public of Western Australia that they have ever seen. In tabling the Estimates of Revenue and Expenditure for 1986-87, Brian Burke praised his Government for budgeting for a surplus of \$1 million. He did that by fiddling the figures and increasing the revenue by \$1 million or decreasing expenditure by \$1 million. However, this Government, with creative accounting, has made a far greater impact on the figures by bringing in an allegedly balanced Budget. I apologise to the House that I have not had more time to do more research. I might be understating the position; it might be a lot worse than I originally thought. I asked the Minister for Education a question relating to a special program for maintenance of the education program. She quoted from the Treasurer's speech and said -

... a special \$75 million two year maintenance program including minor works to address ongoing needs and overcome the backlog in school maintenance. \$35.6 million will be made available this year, an increase of 66.6% on 1990-91.

When one tries to find that amount one finds that total expenditure on education has increased from \$965 million to \$992 million, a difference of only \$27 million. We were told that the total expenditure would be increased by an extra \$35 million for general maintenance; that is, \$75 million over two years.

Hon George Cash: No wonder the Minister could not find it in the Budget speech.

Hon MAX EVANS: That is right. I turn to the Capital Works Program, and the item at page 15, Special Maintenance, Other Works, with an allocation of \$20 million. Normally if a Government makes a commitment to spend money over two years it shows an estimated cost - that is, \$75 million, followed by how much the Government intends to spend this year. The Premier mentions an amount of \$35.6 million to be spent this year but the Capital Works Program for special maintenance shows an allocation of only \$20 million. I cannot find an amount of \$35.6 million anywhere under the Consolidated Revenue Fund. Here we have \$20 million for special maintenance which is normally a CRF item because it is not an ongoing expenditure. It should have been expended out of the revenue Budget for the year.

My second point relates to motor vehicle acquisitions -

The PRESIDENT: I am having difficulty with the member's comments. I relate that difficulty to Standing Order No 98, which says that a member should not anticipate discussion on any subject that appears on the Notice Paper. The motion that this House take note of the Budget papers is indeed an Order of the Day for the next sitting of the House. It seems to me that the member is discussing a matter that properly would be discussed under that Order of the Day. I have been trying to reconcile in my mind the difference between something which is a matter of urgency, which in his opening remarks he said he wanted to discuss -

Hon MAX EVANS: My comments relate to answers given by the Minister for Education during question time today regarding the schools maintenance program.

The PRESIDENT: To finish what I was saying, it seems to me that the member moved away from the situation of explaining whatever the matter is he thinks is urgent, towards discussing the contents of the Budget papers. I suggest that brings him into conflict with Standing Order No 98. I cannot allow the member to continue to bring up these matters in this debate. It is important that the member does not allow his matter of urgency to transgress into what has already been decided will be an Order of the Day for the next sitting of the House.

Hon MAX EVANS: I take note of your comments Mr President. My reason for bringing up the matter was that I will not be here for the next sitting. I accept that I cannot comment any further. Therefore, I will let my matter of urgency lapse at this stage. I will bring it up at another time.

*Adjournment Debate - Police Station, Bullsbrook*

HON DERRICK TOMLINSON (East Metropolitan) [6.04 pm]: Before the House adjourns, I wish to bring to its attention a resolution carried at a public meeting held at Bullsbrook last evening. That meeting resolved that the Government be pressed to establish a police station at Bullsbrook. Like many residents of the Perth metropolitan area, people at Bullsbrook are concerned about the increasing incidence of crime within their community. Some examples of their perception of the increase in crime were given. The local supermarket owner, for example, advised the meeting that his store had been broken into so many times and the front window of the store had been smashed so many times that the insurer had withdrawn the cover. The owner is no longer covered by insurance. One resident rather disparagingly observed that he owned a V8 Commodore. We all know that V8 Commodores have rather a throaty roar - something like the throaty roar we hear in this House on occasions. He told the meeting that he had taken to parking his vehicle on the other side of his house from his bedroom because he was fed up with being woken by the throaty roar of his V8 when it was stolen. While comments of that kind made light of the public concern, there were also genuine expressions of concern.

On 20 August, I asked a series of questions of the Minister for Police relating to the provision of a police station at Bullsbrook. I received the answers yesterday. I asked whether officers of the Police Department over the past 18 months investigated a proposal to establish a police station at Bullsbrook? The answer was yes. I asked whether the proposal included the restoration and refurbishment of a derelict building, and was that costed at \$60 000 including the cost of providing a motor vehicle and computers. The answer was yes. I then asked whether the proposal included an offer of two houses from the Defence Housing Authority at a weekly rental of \$85 each. Again the Minister answered yes. My last question was whether the proposal had been rejected? The answer was no.

As members might imagine, the residents at the meeting in Bullsbrook last evening were rather heartened by the news that the proposal has not been rejected. They were concerned, however, that because of the prevarication by the Government on this issue - bearing in mind that the proposal has been developed over 18 months - there is still no answer regarding whether the project will proceed. Members can imagine the concern of the residents when they learnt that one element of the proposal might no longer be available. The offer from the Defence Housing Authority of two at present unused homes to be rented for police accommodation at \$85 each included an offer from the authority that the two houses be repaired and renovated at a cost to the authority of \$7 500 each; in other words, as a token of

goodwill a Commonwealth authority was prepared to allocate \$15 000 to assist the establishment of a police station in the community. That offer is now at the stage of uncertainty because of the uncertainty of the funds being available from Commonwealth authorities.

The proposal which has been developed by the Midland Police Station for \$60 000 is a very cheap way of establishing a police station. It also includes the provision of two police officers without a demand for an increase in the complement of police officers in the region. The superintendent of the Midland Police Station is both prepared and able to accommodate the transfer of two officers from the Midland office to Bullsbrook to man that police station. In spite of its being a very attractive offer financially and given the statements which were made in the Budget today, one would assume the Government would be eager to respond to a cost saving proposal management services of the Police Department are looking at as an alternative; that is, to buy a parcel of land for \$47 000 and to build a new police station. The total cost of the proposal is \$250 000. That sum is not available to the Police Department in this financial year's Capital Works Budget. If the Police Department follows the proposal being investigated by its management services not only will it cost \$250 000 - four times the proposal put forward by the superintendent of the Midland Police Station - but also it will be delayed by at least 12 months. Whereas the \$60 000 proposal could proceed immediately, the \$250 000 proposal could not proceed until funds are available in the 1992-93 financial year. Members might imagine that the residents of Bullsbrook were more than a little dismayed to learn that the prevarication of the Government on this issue has put at risk their simple request for a police presence in their community. The House should take note of the request of the residents of Bullsbrook that the Government proceed to establish a police station in their community forthwith.

*Adjournment Debate - Budget - Education Allowance Suspension*

**HON R.G. PIKE** (North Metropolitan) [6.12 pm]: It has been announced today in the Government's Budget speech that the pork-barrelling by the Labor Government - it was the most manifest pork-barrelling one could ever witness and it was in the form of a promise of an education allowance of \$50 per primary school child and \$100 per high school child, a promise which was announced with great fanfare and blowing of trumpets with full page advertisements in the Press with the usual Labor Party manifest mendacity -

Hon T.G. Butler: What does that mean?

Hon R.G. PIKE: It means a lying Labor Party.

Several members interjected.

Hon R.G. PIKE: However, today the Premier, in her Budget speech, announced that the allowance has been suspended. The House simply should not adjourn until the insincerity, the duplicity and the mendaciousness of this Lawrence Labor Government is exposed to the people of Western Australia.

The Government can say what it likes, but the bottom line, to use Hon Peter Dowding's terminology, is that the Government promised \$50 per primary school child and \$100 per high school child for assistance with their education. It was blatant pork-barrelling to exceed even some of the American southern States and now it has been suspended. The lesson for us to learn is not to believe the Labor Party next time. As Churchill once said, "If you don't learn from the mistakes of history you are bound to repeat them." Members should remember this Lawrence Labor Government is the most mendacious and insincere that has ever been the displeasure of the people of Western Australia to suffer under.

**HON KAY HALLAHAN** (East Metropolitan - Minister for Education) [6.14 pm]: It is clear that the Opposition is having difficulty coming to terms with the expressed opinions of the electorate. Until they are able to do that they will have significant problems. I thought the education allowance was a very good allowance and I have been amazed at the number of expressions that indicate the lack of what I thought would have been universal support for the allowance. The community has not fulsomely supported that allowance in the way I thought it would and in response to that the Government has looked at the matters which the people concerned about our schools and education system have pointed out and it has been responsive to that in this year's Budget. It is all right for the Opposition to make all sorts of allegations about the insincerity of the Government but it has to face the fact that people have

made many expressions in regard to this allowance and I suggest the Opposition listen to what people are saying. The only thing one can say in defending the Opposition's point of view, and apart from the fact that this was a difficult Budget to bring down, is that the Government has done the best possible job under the circumstances. Maybe the Opposition is not in touch with the electorate and has not heard the expressions of concern which members of the Government have heard.

Hon J.M. Berinson: They don't listen to each other otherwise they would know that their colleagues have been arguing about this for years.

Hon KAY HALLAHAN: The Leader of the House makes a very valid point. The Leader of the Opposition spoke against this education allowance and I am mystified and surprised that the Opposition did not congratulate the Government today when the announcement was made that the allowance is to be suspended. However, in politics we should not be too surprised at the changing positions of the Opposition.

HON PETER FOSS (East Metropolitan) [6.17 pm]: When the question was asked of the Minister for Education whether the suspension of the education allowance meant anything at all, as opposed to the fact that it was being withdrawn, and whether we can expect the promise to be renewed at the next election, I was surprised that the Minister did not answer it. It was a perfectly fair question to ask what "suspension" meant and it was fair to ask whether this indicated it was intended to be renewed at the next election. It was an appropriate question about education because I can recall three elections at which the Government promised kindergartens for four year olds. This Government never likes to spoil a good election promise and the best way to do that is for it to keep a promise for the next election. The perfectly reasonable question to ask in this instance is whether the motivation behind this move is that it is brought out only when it wants to be elected to Government. We have always criticised the introduction of a \$50 per primary school child and \$100 per high school child education allowance because we saw it for what it was; that is, as Hon Bob Pike said, sheer pork-barrelling.

The first year this allowance was introduced it was not given and the Government said that it did not intend the allowance to be made until the following year. I actually received some of that money the first year it was distributed, and it was very nice. Ever since then I have not seen any of it because the allowance has been means tested. I am not at all surprised the public is not keen on it now - very few people are getting it. The amount of administration involved means it is one of the most inefficient benefits which has ever been given. Of course the Opposition criticised it. The Opposition still thinks that it was one of the more stupid things this Government did. It was done not to benefit the people of Western Australia, but to benefit itself. It considered it to be a marvellous way of handing out money to get votes. It achieved that purpose and the Government was re-elected and it has been back-peddalling ever since. It is a cynical exercise which is introduced when an election is pending and it is suspended when there is no election. The only indication we have from this action of the Government's is that there will not be an election in the next 12 months.

Question put and passed.

*House adjourned at 6.20 pm*

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**QUESTIONS ON NOTICE**

**COMMUNITY SERVICES DEPARTMENT - WORKERS' COMPENSATION**

*Employees Gift Penalties and Allowances*

636. Hon GEORGE CASH to the Minister for Education representing the Minister for Community Services:

- (1) Has it been the practice of the Department for Community Services to pay employees gift penalties and allowances whilst on workers' compensation?
- (2) If so, for what reason?
- (3) Has the department reviewed this practice?

Hon KAY HALLAHAN replied:

The Minister for Community Services has provided the following reply -

- (1) It is not the general practice of the Department for Community Services to pay employees gift penalties and allowances while on workers' compensation, but an anomalous practice existed for group workers.
- (2) Prior to the broadbanding of salaries, shift loadings paid to group workers were regarded as a part of an all up salary. Post broadbanding, these staff were paid a 14 per cent commuted shift allowance in addition to their substantive salary levels. In accordance with the Workers' Compensation and Assistance Act 1981, such allowances are expressly excluded from workers' compensation payments, but due to an oversight these continued to be paid by the department.
- (3) Yes.

**RIVERBANK - SECURITY UPGRADE**

637. Hon GEORGE CASH to the Minister for Education representing the Minister for Community Services:

- (1) What action has been taken to upgrade security at the Riverbank detention centre following the attack earlier this year on two group workers?
- (2) Have both group workers returned to work?
- (3) If not, how long are they expected to be off work?

Hon KAY HALLAHAN replied:

The Minister for Community Services has provided the following reply -

- (1) Security has been upgraded at four secure centres. The existing alarm system at Riverbank will be replaced with a radio controlled alarm system which can be carried by staff. Surveillance cameras will also be installed in the woodwork and metalwork shop. Large observation panels will be fitted to workshop doors.
- (2) No.
- (3) It is still likely to be a considerable time before one of the group workers returns to work. The other group worker is likely to return to work sooner, although no dates have been set at present.

**COMMUNITY SERVICES DEPARTMENT - SECURITY UPGRADING PROGRAM**

*Personal Alarms*

638. Hon GEORGE CASH to the Minister for Education representing the Minister for Community Services:

- (1) Has the Department for Community Services in each of the past three financial

years expended capital amounts agreed to by the Parliament in respect of the upgrading of security?

- (2) If not, how much of the allocated funds carried over by a new financial year, enabled the work to proceed at a later date?
- (3) Which items of the security upgrading program have been deferred?
- (4) Have group workers at Riverbank previously requested personal alarms?
- (5) If so, have these personal alarms been provided?
- (6) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for Community Services has provided the following reply -

- (1) No.
- (2) All funding carried forward over the past three financial periods has enabled work to proceed or be completed at a later date.
- (3) None.
- (4) No. Not prior to 1991.
- (5) Not applicable.
- (6) Issue not raised prior to 1991.

#### RIVERBANK- OCCUPATIONAL HEALTH, SAFETY AND WELFARE DEPARTMENT

##### *Inadequate Working Conditions Notice*

639. Hon GEORGE CASH to the Minister for Education representing the Minister for Community Services:

- (1) Has the Department of Occupational Health, Safety and Welfare served notice on Riverbank detention centre for inadequate or unsafe working conditions?
- (2) If so, what matters did the Department of Occupational Health, Safety and Welfare consider inadequate or unsafe?
- (3) What action has been taken to justify this position?

Hon KAY HALLAHAN replied:

The Minister for Community Services has provided the following reply -

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

#### HOMESWEST - MEEKATHARRA SHIRE COUNCIL

##### *Aboriginal Housing Development - Sewerage Concern*

683. Hon P.H. LOCKYER to the Attorney General representing the Minister for Housing:

- (1) Is the Government aware of concern being expressed by the Meekatharra Shire Council with regard to sewerage arrangements for a recently completed Homeswest development for Aboriginal people in the town?
- (2) Have normal Health Department of Western Australia regulations been adhered to?
- (3) If not, why not?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

- (1) Yes. Concern was over the effluent disposal system installed by the

Public Works Department some 12 years ago in accordance with criteria set by the Water Authority of Western Australia (WAWA).

I recently visited the development and held discussions with the Meekatharra Shire Council. Mr Brown, the WAWA engineer, inspected the system and agreed that the installation and operation is correct and suitable for present and future requirements. However, to ensure no problems should arise, I requested Homeswest to arrange with WAWA to construct infiltration ponds and install a 2100 mm high protective fence around the area of the ponds. These works have commenced and will be completed in approximately three weeks.

- (2) Yes.
- (3) Not applicable.

**EDUCATION MINISTRY - DISTRICT HIGH SCHOOLS**  
*School Assistants Class 2 - Reclassification Commitment*  
*Withdrawal*

691. Hon BARRY HOUSE to the Minister for Education:

- (1) Is the Minister aware that the Ministry of Education has withdrawn from a commitment given as long ago as December 1990 for a reclassification of school assistants class 2 working in district high schools?
- (2) If so, what is the reason for renegeing on this commitment to this group of employees?

Hon KAY HALLAHAN replied:

- (1) The ministry agreed to investigate the classification of these employees on the grounds of merit. The matter has now been referred to the Public Service Arbitrator, who will decide the matter on merit according to the duties and responsibilities of the positions.
- (2) Not applicable.

**SCHOOLS - WANNEROO SENIOR HIGH SCHOOL**  
*Fibreglass Ceilings - Building Management Authority*  
*Inspections*

692. Hon GEORGE CASH to the Minister for Education representing the Minister for Construction:

- (1) When did the Building Management Authority inspect the fibreglass ceilings at the Wanneroo Senior High School?
- (2) When will work commence to replace the various ceilings that have been determined as needing immediate replacement?
- (3) When will work commence to replace those ceilings determined as priority 2?
- (4) What is the estimated cost of the work comprising the priority 1 category and the priority 2 category and when will the respective work be completed?

Hon KAY HALLAHAN replied:

The Minister for Construction has provided the following response -

- (1) In August 1990, as part of the annual inspection to produce building survey reports.
- (2) Replacement commenced on 9 August 1991.
- (3) 1 October 1991.
- (4) The contract sum of the priority one work is \$8 016. This contract is anticipated to be completed on 29 August 1991. The estimate for the priority two work is \$33 570. This work is anticipated to be completed by 11 October 1991.

**CHILD CARE CENTRES - ENDEAVOUR CHILD CARE CENTRE, HILLARYS**  
*Building Management Authority - Rates and Repairs*

693. Hon GEORGE CASH to the Minister for Education representing the Minister for Construction:

- (1) Has the Building Management Authority met the cost of the water rates and Local Government rates in the past at the Endeavour Child Care Centre?
- (2) Has the Building Management Authority attempted to acquire recompense for these charges from the various groups occupying space at the Endeavour Centre at Endeavour Road, Hillarys?
- (3) Is the Building Management Authority aware of the leaking roof at the Endeavour Child Care Centre?
- (4) If so, what action has been taken to effect the necessary repairs?

Hon KAY HALLAHAN replied:

The Minister for Construction has provided the following response -

- (1) Water rates - yes. Local government rates - no.
- (2) No.
- (3) No. Endeavour Child Care Centre is responsible for its own maintenance under an agreement with Community Services.
- (4) Not applicable.

**EDUCATION MINISTRY - TEACHERS**  
*In-service Courses - Industrial Art Teachers*

695. Hon GEORGE CASH to the Minister for Education:

- (1) Is the Ministry of Education committed to providing appropriate in-service courses for its academic staff?
- (2) Are regular in-service courses conducted for industrial art teachers?
- (3) How many industrial art teachers are employed at Wanneroo Senior High School, Mirrabooka Senior High School, Balcatta Senior High School, Balga Senior High School and Girrawheen Senior High School?
- (4) How many industrial art teachers referred to in (3) above, have attended in-service courses since first semester 1990?

Hon KAY HALLAHAN replied:

- (1) Yes. The Ministry of Education is committed to providing professional development and training opportunities for all staff.
- (2) Each school is given an annual school development grant which includes a component for the professional development of its staff. Decisions about the allocation of these funds are made at school level or at district level through district network meetings. The ministry also provides a range of other development opportunities including -
  - (a) access to interstate and overseas exchanges;
  - (b) a range of scholarships, including HECS exemptions;
  - (c) teachers on professional study awards;
  - (d) placements in industrial, commercial or service organisations through the industry access scheme.

Additionally, the ministry allocates funds to a range of specialist professional associations for specific purposes including training and development programs. The Manual Arts Teachers Association has access to these funds on application.

- |     |                               |     |
|-----|-------------------------------|-----|
| (3) | Wanneroo Senior High School   | 7.0 |
|     | Mirrabooka Senior School      | 5.0 |
|     | Balcatta Senior High School   | 4.0 |
|     | Balga Senior High School      | 5.0 |
|     | Girrawheen Senior High School | 8.0 |
- (4) This information is not available; the ministry instituted record keeping designed to provide information of this nature in July 1991.

**GORDON REID FOUNDATION FOR CONSERVATION**

*Establishment Date*

701. Hon P.G. PENDAL to the Minister for Police representing the Minister for Racing and Gaming:

- (1) When did the Government establish the Gordon Reid Foundation for Conservation?
- (2) For what purpose was it established?
- (3) How is it funded?
- (4) Who are the trustees of the Gordon Reid Foundation?
- (5) How were they appointed?
- (6) What are their relevant qualifications for this position?
- (7) What grants has the Gordon Reid Foundation made?
- (8) What sums were granted, for what purpose and to whom?
- (9) Is the Government satisfied that this foundation is using its funds in a manner consistent with its charter?

Hon GRAHAM EDWARDS replied:

The Minister for Racing and Gaming has provided the following response -

- (1) The Gordon Reid Foundation for Conservation was an initiative of the Lotteries Commission and established by the commission in early 1990.
- (2) The purposes of the foundation are -
  - (a) the conservation of the Western Australian environment with special emphasis on indigenous flora and fauna;
  - (b) the identification and conservation of critical habitats and ecosystems;
  - (c) the conservation of rare, endangered and threatened indigenous flora and fauna species in the State;
  - (d) public education and awareness of environmental issues within the State;
  - (e) research or other studies into any matters related to any of the foregoing.
- (3) \$1.5 million was set aside by the Lotteries Commission. The interest earned on the capital is available for distribution.
- (4) Mr William Warnock, Mr Neil Blake, Dr Elizabeth Mattiske, Dr Maurice Mulcahy, Professor George Seddon.
- (5) By the Lotteries Commission.
- (6) Mr Bill Warnock is a Commissioner of the Lotteries Commission and Chairperson of the Gordon Reid Foundation for Conservation.

Mr Neil Blake has considerable experience of the conservation of arid land ecosystems, protection of national parks and nature reserves, urban conservation issues and community involvement in conservation.

Dr Elizabeth Matiske is a plant ecologist with expertise in vegetation mapping, the functions of plant ecosystems and conservation issues.

Dr Maurice Mulcahy, a former research scientist in CSIRO, and later with the Environmental Protection Authority, has a special interest in conservation of nature through the establishment of parks and reserves, and improved land planning.

Professor George Seddon, Professor Emeritus of Environmental Science at Melbourne University and currently Professorial Associate at the University of Western Australia, is a well known authority on many aspects of the environment.

(7)-(8)

\$12 000 to the Conservation Council of Western Australia for appointment of a coordinator of volunteers for one year for a special project;

\$5 000 to the Keith Roby Foundation towards the costs of bring Professor Jay Gould to Western Australia to be the keynote speaker for a public lecture on the environment;

(\$12 500 to the Tammin Land Conference towards the cost of featuring Professor Paul Ehrlich in a public forum on environmental management in October 1991.

(9) Yes.

#### ABORIGINAL CULTURAL AND HERITAGE CENTRE - BICENTENNIAL COMMEMORATIVE PROGRAM

705. Hon P.G. PENDAL to the Minister for Education representing the Minister for Aboriginal Affairs:

In 1984 the Western Australian Council of the Australian Bicentennial Authority was allocated substantial funds under the Commonwealth/State Bicentennial Commemorative Program for an Aboriginal Cultural and Heritage Centre to be established in Western Australia. The funding for the project was provided jointly from Commonwealth and State sources and was indexed at 1984 prices. It was intended that the centre was to be opened in 1988 as a part of the bicentennial celebrations. Therefore I now ask -

- (1) Have the funds been allocated to the construction of a centre?
- (2) If so, where is the centre to be located?
- (3) If the funds have not been allocated when will they be allocated?
- (4) What is the current value of the funds available for the project?
- (5) What State Government agency is responsible for the administration of the funds?

Hon KAY HALLAHAN replied:

The Minister for Aboriginal Affairs has provided the following reply -

The project did not proceed. Questions (1) to (5) do not apply.

#### ABORIGINAL LAND - LOCAL GOVERNMENT RATES

715. Hon N.F. MOORE to the Minister for Education representing the Minister for Local Government:

- (1) Is it possible for local authorities to rate the following types of Aboriginal land -
  - (a) reserves;
  - (b) special purpose leases; or
  - (c) other leases?

- (2) If not, why not?
- (3) What categories of land are exempt from the payment of local authority rates?

Hon KAY HALLAHAN replied:

The Minister for Local Government has provided the following reply -

(1)-(2)

This sort of land is rateable where it is the property of the Crown and is leased for a purpose that is not a public purpose.

- (3) The provisions exempting the payment of rates are specified in section 532 of the Local Government Act.

#### RAILWAYS - ELECTRIC RAIL CARS

##### *Contract Penalty Clause*

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

- (1) Will the Minister advise whether a penalty clause has been incorporated into the contract to supply the new electric railway carriages if the supplier does not meet the delivery date or the carriages are not in safe and reliable working order?
- (2) If so, what is the penalty?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Provision has been made in the contract for liquidated damages for non-delivery in accordance with the contract documentation.
- (2) The liquidated damages are \$7 500 per car set per week.

#### KEMERTON INDUSTRIAL PARK - RAILWAY EXTENSION

734. Hon MURRAY MONTGOMERY to the Minister for Police representing the Minister for Transport:

- (1) What undertakings has the Government given in relation to extending the railway to the Kemerton industrial site?
- (2) Has the Government decided to extend the railway to Kemerton?
- (3) If yes, when?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) None.

(2)-(3)

The Government supports in principle construction of a railway spur line near Brunswick into the Kemerton Industrial Park and planning provides for the rail connection. Construction of the railway will depend on the viability of the proposal and on funds being available. This is yet to be progressed.

#### ABORIGINES - LAND RESERVATION

##### *Ministerial Task Force*

736. Hon N.F. MOORE to the Minister for Education representing the Minister for Lands:

- (1) Is there a ministerial task force which makes recommendations on the reservation of land for the use and benefit of Aboriginal inhabitants?
- (2) If so, who are the members of this task force?
- (3) Does the task force have a list designated for priority action?
- (4) If so, which areas of land are on this priority list?

- (5) Are local authorities always consulted when consideration is being given to granting applications for land reservation?
- (6) If not, why not?
- (7) What notice is taken by the Department of Land Administration of objections to reservations lodged by local authorities?

Hon KAY HALLAHAN replied:

The Minister for Lands has provided the following reply -

- (1) Yes.
- (2)
 

Thea Mendelsohn	- Office of Minister for Aboriginal Affairs
Tim Hillyard	- Office of Minister for Lands
Colin Thackrah	- Aboriginal Affairs Planning Authority
Trevor Carleton	- Department of Land Administration

- (3) Yes.

<u>Community</u>	<u>Location</u>
Gurrumbi	Ivanhoe Station
Worrworrum	Ivanhoe Station
Ngoonjuwiri	Lamboos Station
Munjarl	Moola Bulla Station
Mary River	Margaret River Station
Koomie	Springvale Station
Tirralintji	Mornington Station
Koorooby	Kalyeeda Station
Yardoogarra	Thangoo Station
Yhitarta	Fairfield Station
Kanimpirri	Brooking Springs Station
Bungardi	Brooking Springs Station
Pirruru	Brooking Springs Station
Gurra Bunja	Mt Welcome Station
Innawonga	Rocklea Station
Yartharla	Yarraloola/Yalleen Stations
Irrungadji	Nullagine Common
Jindina	Millstream Water Reserve
Paupiyala Tjarrutja	Gt Victoria Desert
Goolumburoo	Byro

- (5)-(6) Local government authorities are consulted on Aboriginal living area applications wherever possible, although no statutory obligation exists for this to occur.
- (7) Genuine notice is taken by DOLA of local government objections and concerns, together with all other inputs to the process, and ongoing consultation is normally pursued until resolution is reached.

## QUESTIONS WITHOUT NOTICE

### BUDGET - POLICE

#### Cuts

470. Hon GEORGE CASH to the Minister for Police:

I refer to the Budget papers tabled in the House this afternoon and in particular to the amount allocated to the Police Force. The Government acknowledges that crime has risen by more than 15.5 per cent during the past year, so can the Minister explain why in this Budget there has been a real cut in the allocation to the Police Force?

Hon GRAHAM EDWARDS replied:

There has not been a real cut in the police budget; indeed, there has been real growth.

Hon George Cash: Rubbish!

Hon GRAHAM EDWARDS: I will explain to the Leader of the Opposition where it comes from. The Budget figure for the police was described today by the Police Union as "quite reasonable". If one is looking for a comparison of amounts allocated to the Police budget one needs to compare like with like. Hon George Cash is aware that some amounts are not included in that figure; for instance, the police licensing allocation is shown separately. Other amounts are not reflected in the Consolidated Revenue Fund; for instance, an \$18 million allocation for vehicles. In addition there are capital works. The figure for this year is \$272 264 000 compared with \$256 117 000 last year, an overall increase of 6.3 per cent; so there is not a real reduction as suggested by the Leader of the Opposition. I am happy to supply him with all the figures to make a comparison. Having said that, there is a real increase but it is still a tight Budget for the police, who understand that. I think they are equal to the challenge and I am sure will do the sort of job and maintain the sorts of standards required of the police in this State.

**BUDGET - POLICE**  
*Increase*

471. Hon GEORGE CASH to the Minister for Police:

Division 66, Police, of the Budget tabled in the House today and Division 67, Police Licensing and Services, totalled \$242 318 000 in 1991. Will the Minister explain how he arrives at a 6.7 per cent increase in funding when this year those two divisions total \$243 532 000? If the Minister wants to use the acquisition of police vehicles as an excuse, he is clearly not comparing like with like.

Hon GRAHAM EDWARDS replied:

What a lot of rubbish! We are talking about an allocation to the Police Force of \$272 264 000. It does not matter how the Leader of the Opposition attempts to undress those figures; they are there in black and white. We are seeing the Opposition spokesman on police matters, who has been done over by a succession of Government police Ministers over the years -

Hon George Cash: I have seen six Ministers come and go.

Several members interjected.

The PRESIDENT: Order! For goodness sake! I do not want honourable members to allow this question without notice session to degenerate into a brawl across the Chamber. The Minister is permitted to answer the question. Perhaps he should not enter into a debate about it.

Hon GRAHAM EDWARDS: I accept your advice, Mr President. The total allocation to "Police" and "Police Licensing and Services" including capital works last year was \$256 117 000. The allocation for the same areas this year is \$272 264 000, comprising Consolidated Revenue Fund "police", \$222 856 000, Consolidated Revenue Fund "police licensing", \$20 676 000, which includes an allocation for vehicles of \$18 million, capital works "police", \$10 560 000, and capital works "licensing", \$172 000. Those figures can be found in the Budget and clearly refute the allegation made by Hon George Cash. It is the sort of contribution I would expect from a member who has tried desperately over the years to undermine the Police Force in this State, fortunately unsuccessfully.

**GUARDIANSHIP AND ADMINISTRATION BILL - IMPLEMENTATION DATE**

472. Hon BARRY HOUSE to the Attorney General:

When will the Guardianship and Administration Bill be implemented?

Hon J.M. BERINSON replied:

I thank the member for his question, which allows me to say that although I released a Press statement on this matter last week it did not seem to be reported fully in some respects, which could have given rise to some mistaken impressions. The public guardian will be appointed in January. That will allow time for him or her to engage in the necessary administrative work to allow the proclamation of the Act and the commencement of the guardianship tribunal with effect from 1 July. In the first part of next year an opportunity will be taken to introduce amendments to the Act which have been found necessary as a result of studies by the under secretary for law in the other States. Those amendments will apply only to technical matters. I do not believe they will raise questions of principle or difficulty for this House.

It is also relevant in this context to indicate that it is expected that the guardianship tribunal will occupy about half the time of one of the Supreme Court judges and, with that in prospect, the Government has also agreed that an additional judge should be appointed to the Supreme Court in January.

#### BUDGET - SCHOOL MAINTENANCE *Special Provisions*

473. Hon B.L. JONES to the Minister for Education:

Will the Minister please provide details of the special provisions for school maintenance contained in this year's Budget?

Hon KAY HALLAHAN replied:

I thank Hon Beryl Jones for her question. Given her insight, perhaps she thought nobody from the Opposition would ask this question.

Hon George Cash: This will not be a ministerial statement, will it?

Hon KAY HALLAHAN: Definitely not, it will be a response to a member of the Parliament.

The PRESIDENT: Order! The Minister is correct and I will see that the rules are conformed with.

Hon KAY HALLAHAN: Given the high profile that the whole question of school maintenance has achieved in recent times, I am pleased to advise the House that special funding of \$75 million will be provided over two years to deal with the issue of the building fabric and community asset we have in our schools. It will give us the opportunity to redress that backlog about which many members have been concerned. For the information of members, there will be a new scheme under which parent groups can apply for a grant of up to \$1 500 if they have a project they would like to see undertaken in their schools. This will be run complementary to the maintenance program. Very often parents and citizens' associations put in a great deal of money and this scheme will complement their efforts, give them a sense of encouragement and build on that commitment which we want P & C associations to have in the building up of the whole devolution picture and the integrity of the school community. Members will also be interested to know of the decision to change gardeners, with their clear and limited range of duties, important though they are, to handypersons within a school.

Hon George Cash: That is a fundamental structural change in the economic system!

Hon KAY HALLAHAN: It is, in the structure of a school. It is quite fundamental to what goes on at schools.

Hon J.M. Berinson: It is a very typical microeconomic reform.

Hon KAY HALLAHAN: Absolutely. It is critical to schools and it will give an opportunity for the resource that is there in the form of a gardener to be used more efficiently.

Several members interjected.

Hon KAY HALLAHAN: Members have asked me questions about changing light globes in schools, and I thought they would be interested to hear this.

Hon Derrick Tomlinson: It is a revolutionary reform. You are to be commended on your foresight and vision.

The PRESIDENT: Order!

Hon KAY HALLAHAN: Would Hon Derrick Tomlinson like to try another layer of sarcasm and see how far he can go?

Several members interjected.

The PRESIDENT: Order!

Hon KAY HALLAHAN: I have no doubt members will be pleased to hear that there will also be a grant direct to the school of \$500, over which the principal will have jurisdiction in regard to minor things. Some members on both sides of the House have been critical, I think fairly, about the lack of flexibility at the school site and the number of very minor things which need doing at the school which are unable to be dealt with in a sensible way. We are moving away from that situation and giving schools - both the principal and the P & C associations - an ability to take charge of some of these minor affairs, quite apart from the other program for the larger works which must be addressed.

I thank Hon Beryl Jones for her question and, knowing that other members are genuinely concerned about these matters, I am sure they found the information of interest.

#### EDUCATION MINISTRY - GARDENERS

474. Hon PETER FOSS to the Minister for Education:

In relation to the previous question, will the gardeners be subject to the Ministry of Education or will they continue to be run through the Building Management Authority? One problem presently experienced by schools is that if they have inefficient gardeners it is extremely hard to get rid of them.

Hon KAY HALLAHAN replied:

I think the member has it wrong. The gardeners are employed through the Ministry of Education; the lawn mowing is done through the Building Management Authority. The award, the union affiliation and the employer of the gardeners will remain as they are, but their duties will be broadened along the lines I have indicated in order to be more flexible.

#### EDUCATION ALLOWANCES - SUSPENSION

475. Hon N.F. MOORE to the Minister for Education:

- (1) How does the Minister justify the decision to suspend the education allowance?
- (2) Does the use of the word "suspend" rather than "abolish" mean that the allowance will be promised again before the next election?

Hon KAY HALLAHAN replied:

(1)-(2)

This is a predictable question for members opposite to be asking today.

Hon P.G. Pendal: Many parents will be asking it too.

Hon KAY HALLAHAN: I will explain to members the reason why the Government came to this decision.

Hon P.G. Pendal: It was because you are broke.

Hon J.M. Berinson: Actually, it is a move that members opposite themselves kept suggesting.

Hon P.G. Pendal: Yes, but it got you over the election day.

Several members interjected.

The PRESIDENT: Order! There was a suggestion earlier, when the Minister was first asked a question, that she would embark on some sort of ministerial statement, the implication being that she would take up this questions without notice time. It seems to me that constantly interjecting on the Minister while she is endeavouring to answer the question achieves the same result, only it is being instigated from the opposite side of the House.

Hon KAY HALLAHAN: Thank you, Mr President. I understand that, prior to my assuming the Education portfolio, a great deal of correspondence was received by the previous Minister in relation to the education allowance; but even in my time in the portfolio I have received numerous letters from parents and citizens' associations and school principals about the education allowance, querying whether it was the most suitable way to spend that money. Many letters came from principals. One could say that principals have a vested interest as they really want to get hold of the money for the payment of school fees and they do not like the fact that it is being sent out to parents. That is one interest group, but I have received letters from P & C associations as well, and their members are parents. Also, I understand that in the beginning the Western Australian Council of State School Organisations came out against the education allowance but has since changed its position and has become supportive of it. Nevertheless, its constituent bodies are still writing to me, as the Minister for Education, indicating that they do not think the education allowance is a very sound allowance. We can all say that some parents will miss it, but quite clearly many parents believe that money could be better allocated. In the face of that, and in the face of all the representations about the need for school maintenance, and that being people's priority, the Government has responded; so we now have a very comprehensive ability to respond to those maintenance needs, and the education allowance has been discontinued. Somebody else asked me what this would mean for next year. Next year will see a new Budget and I cannot gaze into a crystal ball.

#### TAFE - COLLIE TAFE

##### *Upgrading Funds*

476. Hon MURRAY MONTGOMERY to the Minister for Education:

I refer to the proposed new power station at Collie and the consequent need to retrain and reskill the work force around Collie. With this in mind, has any special provision been made in the Budget to upgrade the TAFE school in Collie?

Hon KAY HALLAHAN replied:

The whole question of the need for the training of people at Collie has been addressed previously. A number of ways are available of providing the training. We will certainly be talking to industry, and this will be a recurring pattern with TAFE; that is, it will be determined what training can be provided on the industry floor and what training can be provided through increased technology. We are about to expand those programs and members will be able to see that the provision of buildings, for example, will not be the way we determine whether the delivery of training is adequate. This will be determined by a program and the outcomes of that program in an effort to meet the industry needs and the needs of Collie. It is well in the Government's mind that these needs must be met.

#### POLICE - REGIONAL POLICE STATIONS

##### *Budget Cuts*

477. Hon DERRICK TOMLINSON to the Minister for Police:

I note that the Midland Police Station has had its budget cut from \$206 000 in 1989 to \$138 000 in 1991, a reduction of about 50 per cent in two years. Have other regional police stations had their budgets cut by the same amount over the same period?

Hon GRAHAM EDWARDS replied:

I do not know where the member obtained his figures, but the Commissioner of Police is still working through those figures with his regional officers. To my knowledge, that process was continuing this morning and has not been concluded. Therefore, the member's figures are in advance of the establishment of the final programs. However, the police budget has never been cut by this State Government, yet if members look at the allocation to police in 1982-83, the last conservative Government Budget in this State, it will be seen that the police allocation was a pitiful \$103 million.

Hon P.G. Pental: And unemployment was half its present rate.

Hon GRAHAM EDWARDS: In its time in office this Government has made a very determined effort -

Hon P.G. Pental: To send the State broke.

Hon GRAHAM EDWARDS: - to provide increased resources to police as well as to increase police numbers. We have been successful on both counts.

# FIREARMS - NATIONAL COMMITTEE ON VIOLENCE

## *Reduction Recommendations*

478. Hon FRED McKENZIE to the Minister for Police:

(1) Is he aware that the national committee on violence has recommended a reduction in the number of firearms in Australian society, and to prevent access to those weapons by people who are not fit and proper persons; that is, such persons as those who have been convicted of violent crime or who have demonstrated a propensity for violence?

(2) The former chairman of this committee, Professor Chappell, has stated -

We are still a long way from achieving those objectives . . . How many more deaths and injuries will it take before governments accept their responsibility to act jointly to ensure the safety and security of all Australians?

Does the Minister support the recommendation?

(3) If so, when are Governments likely to act upon them?

Hon GRAHAM EDWARDS replied:

(1)-(3)

It is to the credit of successive Governments in Western Australia of various political colours that our gun laws have gained the reputation as the toughest in Australia. Unfortunately, the gun laws in other States have not addressed some issues which have been taken into account in this State for a number of decades. I have no trouble in agreeing with the statement made by Professor Chappell.

About two minutes ago a note was put on my desk informing me that I have been invited on Friday night to appear in a debate on gun laws on "60 Minutes". Unfortunately, I will have to decline. That is a pity because Western Australia has a good story to tell regarding gun laws. The Northern Territory, our neighbour to the north, has pretty tough gun laws also. We have set an example which the rest of Australia should follow. Notwithstanding the reputation we have developed in this State, as the House would be aware, I have asked for a review of our gun laws - we cannot rest upon our reputation. I will also be examining options which decrease the number of weapons in our society. One of the greatest impediments to effective gun laws in Australia has been the reluctance of some States to accept uniformity.

Hon D.J. Wordsworth: If we had uniformity we would not have the gun laws that we now have in Western Australia.

Hon GRAHAM EDWARDS: I am not sure what the member is saying. In the wake

of the tragic shootings in New South Wales recently we now have a better environment in which to achieve some commitment for uniform gun laws across Australia, which might represent the type of legislation we have had for so long in this State.

#### BUDGET - SCHOOL MAINTENANCE

*Allocation \$75 million*

479. Hon MAX EVANS to the Minister for Education:

In reply to another question, the Minister mentioned a \$75 million allocation for school maintenance over two years. I cannot find the figures to which the Minister referred in the Budget papers. Will the Minister direct me to the location of that sum of money in the Budget papers? It should not appear in capital expenditure.

Hon KAY HALLAHAN replied:

I saw the Budget papers at the same time as the member did.

Hon Max Evans: You provided the answer to another question covering the maintenance issue.

Hon KAY HALLAHAN: I do not have the line in the Budget papers which the member is seeking. I will find it and inform him of it.

#### INFRINGEMENT NOTICES - REVENUE INCREASE

*Multanova Penalties*

480. Hon J.N. CALDWELL to the Attorney General:

I notice in the Budget Estimates that infringement notices or penalties will be increasing by an estimated 15 per cent, an increase from \$17 million to \$21 million. I hope that the Attorney General is not anticipating such an increase in the crime rate. Will the Multanova system have an effect on these infringements penalties included in the Estimates?

Hon J.M. BERINSON replied:

My understanding is that the Multanova penalties are dealt with by infringement notices, and that all infringement notices, at least for adults, are dealt with through the INREPS system. It would follow that the Multanova penalties are involved with that.

Hon George Cash: It is increasing by 17.7 per cent. That was the question.

Hon J.M. BERINSON: No it was not.

Hon George Cash: What about the increase from \$17.5 million to \$21 million?

Hon J.M. BERINSON: The question was not that; it was: Does the INREPS system cover the Multanova infringement notices? I thought my answer to that question was very clear. The Leader of the Opposition is referring to a short preliminary comment by Hon John Caldwell which does not require a response.

#### BUDGET - EDUCATION MINISTRY

*Increase*

481. Hon P.G. PENDAL to the Minister for Education:

Does she realise that she has failed the Western Australian school system by achieving today a Budget rise for her ministry of a mere 2.8 per cent, which in real terms is a minus growth of 1.2 per cent in the context of a four per cent inflation rate?

Hon KAY HALLAHAN replied:

I direct the member to the Treasurer's speech, which refers to an increase of 5.8 per cent which is a real increase. I do not know where the member got his figures from. In these tight economic times, we all had great concern about

the Budget outcome. Given the circumstances, I am very pleased with the allocation that has been made to the important area of education.

**INFRINGEMENT NOTICES**  
*Revenue Increase - Estimates 1992*

482. Hon GEORGE CASH to the Attorney General:

I refer to page 9 of the Estimates of Revenue and Expenditure for the year ended 30 June 1992, in particular the item "Infringement Penalties" under the heading "Law Courts". Receipts for 1990-91 totalled \$17.832 million. That figure is anticipated to increase by 17.7 per cent to \$21 million this year. Why will there be such a dramatic increase in infringement penalties and revenue during the next year?

Hon J.M. BERINSON replied:

To the extent that the Crown Law Department is associated with these penalties, this relates only to the collection of them. The expected incidence of offences and the effect of any increased penalties are not within the area of my portfolio and, accordingly, I am not in a position to provide a response to the question. It would be more appropriate in these circumstances for the Leader of the Opposition to either redirect his question to another Minister, put it on notice, or, better still, allow that issue, if he wants it to be explored further, to be taken up by the appropriate Estimates Committee.

The PRESIDENT: I have taken the score today and it is interesting to note that, even though we did have some interjections during question time, 14 questions have been asked which is approximately one every two minutes.

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