Legislative Council

Tuesday, 27 November 1990

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 3.30 pm, and read prayers.

BILLS (5) – ASSENT

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

1. Fisheries Amendment Bill
2. Geraldton Foreshore and Marina Development Bill
3. Door to Door Trading Amendment Bill
4. State Employment and Skills Development Authority Bill
5. Racing Penalties (Appeals) Bill

SELECT COMMITTEE ON GOVERNMENT SURVEILLANCE

Appointment

On motion by Hon Peter Foss, resolved –

> That the following members be appointed to serve on the Select Committee – Hon Peter Foss, Hon W.N. Stretch and Hon Max Evans.

PETITION – DUCK SHOOTING

Controlled Season Support

Hon Barry House presented a petition from 222 citizens of Western Australia supporting the continuation of controlled duck hunting.

[See paper No 787.]

Similar petitions were presented by Hon P.G. Pendal (1 017 persons), and Hon George Cash (Leader of the Opposition) (122 persons).

[See papers Nos 789 and 790.]

PETITION – DUCK SHOOTING

Prohibition Legislation Support

Hon Derrick Tomlinson presented a petition bearing the signatures of 1 943 citizens of Western Australia urging Parliament not to declare a duck shooting season for 1991 and to legislate for the prohibition of any future duck shooting in this State.

[See paper No 788.]

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Budget Estimates 1990-91 – Report Tabling

HON E.J. CHARLTON (Agricultural) [3.40 pm]: I present the report of the Standing Committee on Estimates and Financial Operations on the 1990–91 Budget. I move –

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

Question put and passed.

[See paper No 791.]

BILLS (2) – REPORT

1. State Supply Commission Bill
2. Totalisator Agency Board Betting Amendment Bill

Reports of Committees adopted.

Sitting suspended from 3.44 to 3.55 pm

HEALTH AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 14 November.

HON BARRY HOUSE (South West) [3.57 pm]: My first question on this legislation is why was it introduced in the Legislative Council and not in the other place where the Minister for Health sits? I trust a reasonable explanation will be given for the fact that this legislation and the Nurses Bill have been introduced in this House. Perhaps, when the Minister is here, she can provide that information.

Hon J.M. Berinson: It relates purely to the large backlog of Bills on the Notice Paper in the Legislative Assembly compared with the fairly short list of Bills to be considered here.

Hon BARRY HOUSE: That is as may be; however, we have uncovered a series of concerns in this legislation and in the Nurses Bill which cause us to suspect that other reasons exist for their introduction in this House.

It should be of concern to Parliament that the Bill appears to give the Executive Director of Public Health extraordinary powers; it appears to give him carte blanche in many areas. In addition to that, many decisions made by the executive director appear to be not under ministerial responsibility. Furthermore, the Bill contains no appeal provisions. It sets up the executive director as God; he is a bureaucrat with no accountability to the Minister or to Parliament. I do not feel comfortable with that situation and I am sure the Government has not properly examined the matter. The Bill is an excellent example of legislation which should be referred to the Standing Committee on Government Legislation.

The Bill also allows fees and charges to be set by local government by way of resolution. Setting fees and charges through by-laws at local government level will remove the scrutiny of that process from Parliament. In other words, the decision about fees and charges will not be subject to disallowance by Parliament. The policy has not been thought through enough at this stage. The legislation involves the devolution of powers from the State Government to local government, and that appears fine on the surface. However, this legislation alters the carve-up of the basic responsibilities in our State, and adequate time has not been provided to consider the changes. A matter of concern is whether local governments have the ability to handle the extra responsibilities.

The legislation changes the title of health surveyors to environment health officers; that is fine as it complies with national and international conventions. However, concerns have been expressed in local government circles, and generally, about the ability of local councils to resource these people. In other words, do we have sufficient qualified people to do the inspection of extra sewage treatment plants and, in particular, the inspection of game meats?

The legislation provides authority for local councils to set fees and charges by resolution. From my reading of the information provided, it appears that no other form of financing is provided for the extra workload apart from the setting of fees and charges. Therefore, this issue is self-financing and imposes another levy burden on ratepayers in local council areas. This issue must be aired thoroughly by this Parliament before the legislation is passed. The Western Australian Municipal Association has been involved in discussions on this legislation, and the legislation is generally in line with its submission provided to the Minister for Health last year. However, the association expressed concern about the recompense to a local authority for inspection work conducted in game meat establishments. This may relate to buffalo, kangaroo, possum, pig, rabbit, and other classes of animal or birds – maybe including ducks – as prescribed in the legislation.

In summary, insufficient time has been provided to fully examine the legislation; it has been dropped on the Table of this House at the wrong time. The Bill should have been introduced in the other place by the Minister for Health. A case exists for part 6, which relates to the setting of fees and charges, to be referred to the Joint Standing Committee on Delegated Legislation, or even for the entire Bill be referred to the Standing Committee on Legislation because the Bill significantly changes the responsibilities of State and local government; it requires further examination.

HON J.N. CALDWELL (Agricultural) [4.04 pm]: The National Party fully concurs with Hon Barry House in that this Bill was introduced into the wrong place. We believe that it should have been handled by the Minister for Local Government rather than by the Minister

for Health because local government must be fully accountable in this legislation. The legislation states that local authorities must set fees and charges directly affecting the cost of administration, licensing and registration. It also states that fees will no longer be set through by-laws; instead, they will be set by a resolution and published in the *Government Gazette*. In examining the estimates of financial operations I noticed that the cost of publishing local government resolutions in the *Government Gazette* must be borne by the authority. I am sure that local government has not studied the Bill very thoroughly – it has not had time to do so – as it has not expressed its views on this aspect. Undoubtedly, local governments are under immense financial strain as a result of the present economic crisis, as we all are.

The Bill will implement a code of practice for the inspection of game meat for human consumption as produced by the Standing Committee on Agriculture. This is all about health standards, which are absolutely essential to maintain a healthy lifestyle. The standards apply to the slaughter, handling, processing and transport of game meat, which will be covered by regulation. I presume that the regulations will be published in the *Government Gazette*, and that this will also have to be paid for by local authorities. The Minister will be able to halt the slaughter of certain species if the meat is not fit for human consumption. In this case it will probably not apply to the game we know as duck because relevant legislation has been introduced into another place.

This Bill also changes the title of health surveyor to environment health officer.

Hon N.F. Moore: That is a sign of the times.

Hon J.N. CALDWELL: I do not know whether the health officers will appreciate that, but, as Mr Moore says, it is a sign of the times. It seems that the word "environment" must be propped in front of everything these days. This matter is constantly hanging over our heads and whenever health officers handle issues the environmental aspects must be debated. However, this matter has been decided by the Government. It will also allow an aerobic treatment unit to be installed in places which do not have access to a main sewerage system.

Every amendment in this Bill relates to the portfolios of Health and Local Government, and that is why the Opposition finds it rather strange that it should be introduced in this place – the Ministers who should be handling it are in the other place. Other parts of the Bill could be discussed at length, but I would like to hear the comments of the Minister who is supposed to be handling this Bill, Hon Kay Hallahan. The Minister is not here for this debate, which is an indication that the Government is not very serious about this Bill. The Bill should be withdrawn and introduced in the other place, in which sits the appropriate Minister.

Debate adjourned, on motion by Hon Tom Stephens (Parliamentary Secretary).

RESERVES AND LAND REVESTMENT BILL (No 2)

Second Reading

Debate resumed from 13 November.

HON BARRY HOUSE (South West) [4.11 pm]: The Opposition supports this Bill. This legislation is introduced annually to obtain parliamentary approval for four changes, including the approval for the change of use or designation of A class reserves, to remove trusts over freehold reserve land, to close certain pedestrian access ways and rights of way.

In the main, this is an administrative Bill and, with one or two exceptions, it does not contain controversial provisions – unlike the previous Bill, which contained a provision relating to the Subiaco Oval which was very controversial and about which we have not received a final indication from the Minister on the agreement between the Subiaco City Council, the Western Australian Football Commission and the Subiaco Football and Sporting Club. I hope we will have confirmation on that before the Parliament rises.

This legislation contains 10 clauses involving changes to A class reserves, one removal of a trust, 27 closures of pedestrian access ways and one closure of a right of way. I am pleased it does not contain any controversial issues which have been dropped in it at the last minute as were the provisions relating to Subiaco Oval and to a piece of land in Albany which, by one means or another, would have ended up in the hands of the Trades and Labor Council and thus enabled it to gain a windfall profit. Happily, those provisions were withdrawn.

The most satisfactory method of dealing with the Bill is to deal with it in Committee so that each clause can be taken separately for debate by interested members because all members of this Chamber have reserves of one form or another about which they are concerned. Further discussion in Committee is warranted and therefore, to enable us to move quickly to that stage, I support the Bill.

HON J.N. CALDWELL (Agricultural) [4.14 pm]: The National Party supports the Reserves and Land Revestment Bill (No 2), which deals with small parcels of land throughout the State. Apparently, the Department of Conservation and Land Management is streamlining its reserves by offloading many of them onto departments and making many of them A class reserves. One provision of the Bill will allow the South Perth City Council to lease a hall site to the Returned Services League of Australia, WA Branch, at a peppercorn rental. That is interesting, because the heritage legislation which is currently before this House contains provisions which allow for councils to lease, at peppercorn rentals or with reduced rates or some other incentive, sites of heritage significance.

Apparently the access ways referred to in the Bill cause problems through misuse or are subject to vandalism. In many cases, they allow intrusion into families' privacy and encourage antisocial behaviour by groups of young people and not so young people. The second reading speech states –

> . . . the closure applications have been submitted by the relevant local authority after adequate publicity and provision of time for submission of objections.

The South Perth City Council is featured prominently in this Bill. I owned a unit in South Perth which had an access way at its rear which caused problems with noisy vandals and which encouraged break–ins. Therefore, it is good to see the closure of these back alleys.

As I will have a small input into various clauses of the Bill as they arise in Committee, I indicate the National Party's support for the Bill.

HON KAY HALLAHAN (East Metropolitan – Minister for Planning) [4.16 pm]: I am pleased to have the support of the Opposition parties for this Bill.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Reserve No. 25705 in the Shire of Albany –

Hon BARRY HOUSE: When researching this Bill I inquired of local authorities and organisations interested in it and I can advise that no problems exist with the passage of this clause.

Clause put and passed.

Clause 7: Reserve Nos. 19144 and 19145 in the Shire of Carnarvon –

Hon BARRY HOUSE: Clause 7 involves the Shire of Carnarvon, which approved this change in 1989. I contacted bodies such as the Conservation Council of Western Australia, which had some reservations about the clause. Apparently it has met with the Minister but is not totally convinced by her arguments. The council still does not want the status of the reserve downgraded from A class to C class, and considers that this change is being made purely for administrative convenience. The bottom line is that the council dislikes the change but can live with it.

Clause put and passed.

Clause 8: Reserve No. 17375 at Crawley –

Hon BARRY HOUSE: This clause involves the City of Subiaco and, as I said before, it is pleasing that this clause is not as controversial as that relating to the City of Subiaco last year. The Subiaco City Council is happy with the proposed change. However, once again the Conservation Council supports the change on the understanding that the whole region

will revert to an A class reserve. This undertaking was given by the Minister and without that undertaking the council would have reservations about the proposed change. Therefore, I ask the Minister to reassure the Committee that this region will revert to an A class reserve.

Hon KAY HALLAHAN: This change requires a somewhat technical exercise. The area must first be excised and then included in the larger area. I explained that to members of the Conservation Council who were concerned about this two stage exercise. They have accepted my explanation and so long as the desired outcome is achieved they have no concerns about the matter.

Clause put and passed.

Clause 9: Reserve No. 26020 in the Shire of Katanning –

Hon J.N. CALDWELL: I have personal knowledge of this area around Lake Coyrecup, which is a large lake capable of holding a substantial amount of water. It is a pity that this area was not made a reserve for flora and fauna a long time ago. Apparently an elderly gentleman acquired the land and cleared it but, as the land is very sandy and does not have very good soil, no crop has been grown on it at any time. When I was younger I did a lot of duck shooting in the area. I recall that our vehicles invariably got bogged, not because the land was wet but because it was so sandy. It is an excellent lake for recreation. A beach has been established by the shire, together with a loading and unloading ramp for boats. The lake is used for skiing and swimming. I think it is a conservation area for water fowl now, and no more duck shooting takes place. There were thousands of ducks around that lake when I was a boy, and many of the duck shooters built breeding places for the ducks to allow them to increase their numbers. Many duck shooters are conservation minded because they realise where their meat is produced! This proposed change is supported by the Shire of Katanning.

Clause put and passed.

Clause 10: Reserve No. 10523 at Narrogin –

Hon BARRY HOUSE: This clause involves the setting apart of a small rectangular portion of land from an A class "civic centre site" reserve to be made available to the prospective purchaser of adjoining lot 47 which is to be developed. The proposal has the full approval of the Town of Narrogin. An historic church is located on the site to be developed and those concerned with the development aim to preserve it. The land is to be developed by commercial interests as a shopping/office complex. The church and the townsfolk of Narrogin approve of the development, as long as the church is preserved.

Clause put and passed.

Clause 11: Reserve No. 20610 in the Shire of Pingelly –

Hon BARRY HOUSE: This change involves the Shire of Brookton and the Shire of Pingelly. Contact has been made with the shire councils and there seems to be no problem with the proposed changes. However, we received the loud and clear message from the Shire of Brookton that it did not receive prior notification of this move and was unaware of the proposed change until the Opposition contacted it. That unfortunately is similar to circumstances involving the South West Development Authority Amendment Bill which is currently before the Parliament. The shire council intended considering the proposal at its meeting on 20 November and agreed to contact me if it had any objections to the proposed change. I have not been contacted and, therefore, I assume that the proposal meets with its approval.

Hon J.N. CALDWELL: Clause 11 provides that the reserve will be set apart for "Timber (Mallet) and Conservation of Flora and Fauna". That is an interesting description because those who are familiar with mallet areas will know that mallet strippers operated in them, and still do to some extent. The soil in which mallet grows is generally not suitable for agriculture because it is very soft and powdery, and water does not penetrate it very readily. It is invariably very short of manganese. One can spray manganese on the soil to allow a reasonable crop to grow, but the soil is not terribly good. It is the first time since I have been in this place that I have seen an area set aside for the growing of mallet trees. That is a good thing, because the area where mallet trees grow is not particularly good; and the soil is inclined to blow away.

Hon KAY HALLAHAN: Perhaps I should give some background to this clause, although I

would have thought that the departments dealing with this issue had contacted the shires. This is an area which is at present a class A reserve set apart for the purposes referred to by Hon John Caldwell, and that is to be vested in the National Parks and Nature Conservation Authority. The Department of Conservation and Land Management has acquired several private smallholdings immediately adjoining the reserve, and it is consolidating that exercise. That is what this clause is about, as members will realise from the briefing notes I have provided to them. Sections of this land which have now been transferred to the Crown have had to be removed from the operation of the Transfer of Land Act, so the boundaries have had to be resurveyed, and new identification numbers have been allocated. It is not taking something away from the area; it is in fact adding something to the area.

Clause put and passed.

Clause 12: Reserve No. 31737 in the Shire of Ravensthorpe –

Hon BARRY HOUSE: In regard to this clause and the next, the shire was not really concerned about the proposed changes but was about the lack of liaison between the shire and the Department of Conservation and Land Management. This is a requirement of the town planning scheme. The liaison does not seem to have been what it should have been; nevertheless, the shire has no serious objection to the proposal, and the Conservation Council welcomes it.

The CHAIRMAN: Does that apply to clause 13 as well?

Hon BARRY HOUSE: Yes.

Clause put and passed.

Clauses 13 and 14 put and passed.

Clause 15: Hall site at South Perth –

Hon BARRY HOUSE: This clause involves a hall site in South Perth held in fee simple in trust by the Returned Services League of Australia WA Branch. The clause provides for the removal of the trust. This situation apparently came as a shock to the RSL, which thought it owned the hall and the block. However, it is happy to lease the hall from the council for a token rental. At the moment the RSL cannot lease out the hall without this amendment being passed. It appears that the RSL has been leasing out the hall for years in technical breach of the Act. Nobody knew that the RSL did not own the block and the hall, so this proposal will resolve the situation.

Hon P.G. PENDAL: The circumstances of the South Perth property are correctly outlined both in the briefing notes and by Hon Barry House. The clause is here to the great relief and satisfaction of the South Perth City Council; the matter is now at an end.

Clause put and passed.

Clause 16: Land revested in Her Majesty –

Hon BARRY HOUSE: Clause 16 deals with all of the pedestrian accessways and rights of way which are to be closed. There must be a better method of dealing with the situation than coming to Parliament each year. I hope the Minister, when rewriting the Land Act, will seriously reconsider this method of dealing with them. There is a huge problem with the many rights of way and pedestrian access ways in suburban areas. They create a severe nuisance with vandalism. The police regard them as get–aways for anyone trying to avoid the police.

The first subclause concerns the City of Armadale. The landowners there have requested the council to close the pedestrian access way. There has been extensive noise from people using the access way, from motor bikes and so on, and it is used as a rubbish dump. The council is very keen to have it closed.

Hon Garry Kelly: They are all keen to have these places closed.

Hon BARRY HOUSE: Most of these places seem to be centres for nuisance and vandalism; they are full of litter, they are used by school truants, and the police would close every one throughout Perth if they had their way. The liability of access ways is the antisocial behaviour which takes place in them. Closing them would solve many of the problems local residents have. We support the closure of all these places, as do the local authorities.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Kay Hallahan (Minister for Lands), and transmitted to the Assembly.

TOBACCO BILL

Legislation Committee – Report

HON GARRY KELLY (South Metropolitan) [4.40 pm]: I present the report of the Legislation Committee on the Tobacco Bill. I move –

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

Question put and passed.

[See paper No 792.]

INDUSTRIAL RELATIONS AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Tom Stephens (Parliamentary Secretary), read a first time.

Second Reading

HON TOM STEPHENS (Mining and Pastoral – Parliamentary Secretary) [4.42 pm]: I move –

That the Bill be now read a second time.

This Bill amends the Industrial Relations Act 1979 –

to give the Industrial Relations Commission jurisdiction to deal with hours of work and leave matters in respect of salaried public servants;

to re-equate the position of president of the commission to that of a judge of the Supreme Court;

to provide for members of the WA Industrial Relations Commission to be also appointed to the Australian Industrial Relations Commission and for members of the Australian Industrial Relations Commission to be also appointed to the WA Industrial Relations Commission and for persons so appointed to exercise both jurisdictions;

to give the Government School Teachers Tribunal, the Railways Classification Board and the Public Service Arbitrator power to refer matters of industrial relations significance or questions of law to a commission in court session or the Full Bench;

to make it simpler for State registered unions to adopt the rules of their Federal counterparts;

to accurately reflect the changed relationship between the Office of Technical and Further Education and the Ministry of Education;

to confer upon the Minister power to gazette the limit to which promotions appeals can be heard; and

to remedy a number of inconsistencies arising from changed circumstances.

The most significant amendments to the Act are those relating to the proposed inclusion of salaried public servants' hours of work and leave provisions within the jurisdiction of the Western Australian Industrial Relations Commission for the first time and, secondly, the provisions relating to dual appointments.

I will deal firstly with the amendments which will give public servants, for the first time, access in relation to hours of work and leave to the WA Industrial Relations Commission. More specifically, the access will be to the Public Service Arbitrator as a constituent

authority within the Industrial Relations Commission. At present, public servants are unable to have these areas of employment conditions raised before an industrial tribunal as the Industrial Relations Act specifically excludes them from the jurisdiction of the Industrial Relations Commission. The Government considers the exclusion to be inequitable because all other public sector employees have access to the commission on leave and hours of work issues. The reasons for this inequity are historical and relate to the provisions of the former Public Service Act which were included, as they then stood, in the Industrial Relations Act in 1984 when the constituent tribunals were created.

These amendments will bring the issues of hours of work and leave for public servants within the jurisdiction of the Western Australian Industrial Relations Commission. Therefore, any future amendments in respect of these issues will be subject to the wage fixation principles set down by the commission. While one expects that the commission would not vary the hours of work or leave of absence clauses without compelling argument, it is clear that in the interests of equity and consistency, the commission should have the jurisdiction to deal with these matters. The amendments delete section 7(2) and sections 80E(3) and (4) of the principal Act.

The second amendment to the Act proposed by this Bill relates to the position of the President of the Western Australian Industrial Relations Commission. One of the purposes of the amendments is to allow the present incumbent of that position to retain his status, leave and other entitlements. The amendments will provide also for the status and entitlements of the President and an acting president of the Industrial Relations Commission to be the same as those of a puisne judge. The position of president was established in the 1979 Industrial Relations Act and the position had judicial style and status. The intention of the amendment was to enhance the operations and standing of the commission. It was considered that having a judge on the Full Bench would raise the stature and considerably reduce the number of matters to be referred to the Industrial Appeal Court, and thereby reduce delays.

However, the Tripartite Labour Consultative Council later agreed that the weight given to legal form and status under the Act should be reduced. It was also considered that there was a need to distance the resolution of industrial conflict from legal form and technicalities. As a consequence, in 1984 the requirements for the appointment of a president were altered, and the style and status of the position changed. The effect of the change, however, was to limit the field of potential appointees, which hampered Government's capacity to attract the best person for the job. This present amendment restores the status and title of the president of the commission to that which prevailed prior to the 1984 amendments. The new subclause (13) in clause 7 of the Bill ensures the existing president has his entitlements maintained continuously with his former appointment.

The concept of dual appointments allows for a member of the State tribunal to hold a dual appointment as a member of both the WA and the Australian Industrial Relations Commissions and for a member of the Australian Industrial Relations Commission to hold a similar dual appointment. This is seen as a significant but measured step forward in eliminating problems associated with two industrial relations systems applying throughout Australia. Although appointment of State commissioners to the Federal commission would be a form of dual appointment, the full value in dual appointments comes only when members from each tribunal are able to exercise jurisdiction in the other tribunal. The WA Industrial Relations Act must therefore be amended to provide for the dual appointment of members of the Commonwealth commission to the Western Australian Industrial Relations Commission.

The State Government's industrial relations policies seek to improve labour relations and productivity by adopting methods which promote consultation, coordination and cooperation. The appointment of members of the Federal tribunal as members of the State commission and vice versa will be particularly beneficial and more efficient as one commissioner can jointly exercise State and Federal powers, on an ongoing basis, in respect of industries involving both State and Federal award coverage.

Present provisions limit the exercise of joint powers by one member to each dispute and only after liaison between the heads of each tribunal.

No unwarranted interference in the State jurisdiction by the Federal jurisdiction will be possible as section 14 of the Federal Industrial Relations Act 1988 restricts the exercising of

power by commissioners with dual appointments to that which has been agreed to between the President of the AIRC and the head of the State industrial authority, in our case, the chief commissioner.

At clause 6 of the Bill new section 14B(2) will enable the Minister to give directions. These will be confined to administrative arrangements and are procedural in nature to enable monitoring of the workload and service provided to the WA community, and perhaps to allow for a review of the effectiveness of the dual arrangements. They certainly do not envisage directions in relation to which commissioner should handle a particular dispute, or how a particular dispute should be handled. That would be quite improper and would not be contemplated.

In relation to the dual appointment provisions, the Bill contains three significant advantages compared with the present arrangements. Firstly, it will overcome unnecessary administrative arrangements in that the present requirements are that "on each occasion" of a dispute the president and the chief commissioner must liaise and agree on how the issue will be handled, to organise the formal appointment and to allocate the work. With the proposed amendments all that is involved "on each occasion" is to allocate the work subject to the previously agreed standing arrangements. This will be particularly helpful in the building and construction industry where on many sites both Federal and State awards apply.

Secondly, and probably more importantly, nothing will prevent the Australian Government from appointing a State commissioner to the Australian commission right now, with or without consulting the State Government. These amendments give the State the opportunity to agree or otherwise on any such appointments. The Minister is aware that offers of appointment to the Australian Industrial Relations Commission have been made to a number of existing members of the WA Industrial Relations Commission. This makes the speedy passage of the legislation all the more important.

The third significant advantage is that dual appointments will include both greater flexibility in the industrial arena and increased accessibility to, and service from, the Federal commission in WA. Federal awards apply in, for example, the construction and power industries. This means that delays can often be experienced in getting Federal commissioners on site quickly. Dual appointment provisions will address this problem by allowing a dual appointee to exercise both jurisdictions on an ongoing basis.

A significant advantage of a person's holding an ongoing dual appointment is that, in exercising either jurisdiction, the member has intimate knowledge not only of the other jurisdiction, but also of how that other jurisdiction is being applied. That process allows a wise and measured application of cooperative arrangements as opposed to insensitive directions that may come from a unitary national arrangement or system, which may not be appropriate to the circumstances prevailing. As part of the dual appointment process, one area that needs clarifying is the respective roles of the president and the chief commissioner in the WA Industrial Relations Commission.

While in the administration of dual appointments the chief commissioner is the head of the WA tribunal, it is a misunderstanding and significant understatement to portray the role of the chief commissioner as merely an administrative one. The chief commissioner's role is to be the chief industrial relations member of the tribunal. It lies with the incumbent of that position to oversee the application of the Act in industrial relations terms while not inhibiting the authority of individual members. For example, it would not be unusual for the chief commissioner to convene a conference pursuant to section 16(2)(D) of the principal Act in order to lead internal discussions to enable a sharing of experiences on the application of wage fixing principles, or any other decision having broad application. This would presumably be done in order to encourage consistency of decision making within the tribunal. The point is that it would usually be the chief commissioner, and not the president, who would lead those discussions. The president, on the other hand, is the legal authority within the tribunal and his principal function is to oversee the legal application of the Act so as to minimise the delays associated with appeals being taken on legal points to the Industrial Appeal Court.

The qualifications for appointment to each position are noticeably different. Under section 9 of the principal Act the position of president requires legal and judicial abilities without regard for industrial relations experience, whereas the chief commissioner is required to have

industrial relations knowledge of a high level. All of the foregoing is consistent with the well–established principle that an industrial relations tribunal is basically a non–legal tribunal which conducts its proceedings in a way that is readily comprehensible to employees and employers.

No concerns or difficulties in this arrangement have been referred to the Minister because chief commissioners and presidents have understood this; they have worked successfully together, and there has not been a need to spell it out in legislation. In that context, and as part of dual appointments, the appointment of the chief commissioner to be a deputy president of the Australian commission would be an appropriate recognition of the role and position of chief commissioner.

We are perhaps fortunate in having the existing president, who not only comes from a background of impeccable judicial and legal experience but also has the experience of conflict resolution, having been the President of the Licensing Court. However, his role is as the legal and judicial member of the tribunal, and the chief commissioner remains the head of the tribunal, notwithstanding the judicial style and status of the president. We should keep in mind that the Industrial Relations Commission, although a court of record and having some judicial functions, is not a judicial tribunal but an industrial relations tribunal. The principal Act makes that clear at section 26, where it requires the commission to act according to the equity of the case before it and not to be dissuaded from a fair solution by technicalities and legal form.

The fourth set of amendments will promote consistency in the operations of the various constituent authorities whose operations are currently defined in the Industrial Relations Act. These authorities are the School Teachers Tribunal, the Public Service Arbitrator and the Railway Classification Board.

The proposed amendments will allow industrial matters for questions of law to be referred by any one of these tribunals to the commission in Court session or the Full Bench respectively on similar terms to those already granted to a single commissioner. The need for this amendment arises from an Industrial Appeal Court decision which stated that constituent authorities do not have such referral powers under the existing Act. These amendments relate to sections 78, 80E and 80R of the principal Act.

The fifth amendment relates to national moves toward a more integrated and efficient industrial relations system, which has always been an objective of this Government. Amendments proposed in this Bill will enable a State registered organisation to automatically adopt the rules of its Federal counterpart except in those matters which relate to qualifications, membership and name. Currently, to achieve this goal, a State registered union must follow a very cumbersome course which is detailed in the existing Act and in its regulations.

[Questions without notice taken.]

Hon TOM STEPHENS: The amendments provide for a new section 71A. It should be noted that while, as a result of the proposed amendments, one consistent set of rules will apply to the State–registered union and the Federal counterpart, the two bodies will remain separate legal entities.

The sixth amendment arises from the need to complement amendments to the Education Act, which have already been effected by the Parliament and are awaiting proclamation. Amendments to section 73A of the Industrial Relations Act will now accurately reflect the changed relationship between the Ministry of Education and the Office of Technical and Further Education – TAFE. It is intended to seek proclamation of these amendments concurrently with those of the Education Act. The operation of the TAFE system in Western Australia and the renewed emphasis placed upon improving vocational training is of direct relevance to the changing face of industrial relations. The practice of labour relations today is about cooperation through developing skills and improved vocational training and about designing career paths, creating more varied and fulfilling jobs; labour relations are about productivity improvement and skill enhancement is a major contributor to productivity.

All parties to industrial relations are striving towards these objectives, and the role of TAFE will be a crucial one. There is now a far greater need for integration of industrial relations and technical and further education, and this amendment to the Industrial Relations Act will help facilitate that integration.

The seventh amendment arises as a consequence of the extensive industrial relations reforms undertaken by this Government since 1985. The Western Australian public sector has, of course, been affected by these reforms. The reforms have arisen largely from the national and State wage cases of recent years and have focused on issues of structural efficiency and productivity improvement. With the introduction of broad banding in 1985 the "general division" of the Public Service was abolished. However, the top salary classification in the general division – G-II-13 – was included in the Public Service salaries agreement of 1985 to protect the rights of appeal of officers who were unsuccessful in obtaining promotion. This salary point is equivalent to the maximum salary point for what is now known as level 6. Recent amendments to the Public Service Act have deleted reference to the general division. Consequently, the existing provisions of the principal Act refer to a salary level that no longer exists and amendments to the Industrial Relations Act are necessary to re-establish that upper limit on promotion appeals.

The amendments confer upon the Minister the power to gazette the promotions appeal limit. This is consistent with powers already available under section 80X(5) of the principal Act. It is proposed that this amendment, which is contained at clause 12 of the Bill, come into operation on such day as is fixed by proclamation. It is the Minister's intent to gazette the promotion appeal limit at level 6 in order that existing appeal rights are maintained. The Government is strongly committed to procedures which guarantee promotional justice for public sector employees. The present adversarial system of appeals that take place before the Public Service Arbitrator has been under review by the parties for some time. The parties recently agreed to trial an administrative system of review of promotions. Should this trial prove satisfactory, the Government will consider widening the scope for promotions appeals to include all positions other than those which comprise the Senior Executive Service, for which procedures are already in place. This amendment will enable the Government to do this.

Further amendments contained in the Bill include a number of corrections to inconsistencies which have arisen as a result of the change in name of the Federal commission. These are at clause 4 of the Bill and relate to section 7 of the principal Act.

The Bill represents substantial agreement between the major parties to industrial relations in Western Australia, and therefore reflects the consistent approach of this Government in furthering cooperation and consultation in all aspects of industrial relations. This Government is not about imposition; it is about careful consideration of issues and consultation with all parties in appropriate forums. This Bill will ensure that industrial relations in Western Australia, and the Western Australian Industrial Relations Commission itself, are free to operate in conditions which are equitable, consistent and fair.

I commend the Bill to the House.

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

EDUCATION SERVICE PROVIDERS (FULL FEE OVERSEAS STUDENTS) REGISTRATION BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Tom Stephens (Parliamentary Secretary), read a first time.

Second Reading

HON TOM STEPHENS (Mining and Pastoral – Parliamentary Secretary) [5.38 pm]: I move –

That the Bill be now read a second time.

The purpose of the Bill is to regulate education institutions currently enrolling or proposing to recruit full fee overseas students.

Export earnings: The full fee overseas student program is one of significant importance to the economy of Western Australia. A recent survey conducted by the Department of Trade Development showed that the gross revenue for the State earned by the full fee student program in the February-March intake alone was in the vicinity of $15 million. Adding this

figure to previous survey information, the Department of Trade Development estimates the total gross revenue to be approximately $59 million. These figures do not take into account the additional revenue earned from student outlays on housing, food, accommodation and travel, which is conservatively estimated to be 1.5 times the amount spent on tuition fees. Since 1987 the combined export earnings from the students' education and living expenses total approximately $147.5 million and the industry continues to grow at a healthy rate with a 25 per cent increase in student numbers expected next year.

The objective of this Bill is to formalise and regulate the registration of Western Australian education institutions enrolling full fee paying overseas students. Prior to the financial failure in 1989 of two education institutions with enrolments of full fee overseas students, negotiations with the industry were well advanced to register all institutions and courses with such students. This legislation is needed to provide protection for overseas students and to maintain Western Australia's reputation as an internationally recognised study destination for overseas students. For these reasons it is supported by the private and publicly funded sectors of the industry.

The Commonwealth Department of Employment, Education and Training delegated the responsibility for registration to all States and Territories as from 1 January 1990. The registration of education institutions is being conducted under this delegation of responsibility from the Commonwealth. However, it is critical that the arrangements be given a legislative base and the accompanying authority of being enacted in legislation. While the Commonwealth has delegated the responsibility for approving institutions and courses for full fee overseas students, the Commonwealth still maintains a national register which is communicated to Australian overseas posts to be used as the basis for issuing student visas. Western Australia's contribution to the national register is reliant on a State register of approved institutions and courses being built and maintained. This Bill will enable the Ministry of Education to keep a State register of existing institutions with full fee overseas students, to add new entries to the register of approved institutions and courses and to ensure that every step is taken to prevent a recurrence of the financial collapse of educational institutions with full fee overseas students.

While the Government cannot provide guarantees of success for all institutions with full fee overseas students it can, by introducing the measures provided for in the Bill -

1. Appraise the financial viability of institutions;
2. approve indemnity arrangements or guarantees to protect students' fees and accommodation payments;
3. endorse the educational accreditation of courses on offer to overseas students;
4. inspect the facilities and student services including those providing for counselling, pastoral care and grievance procedures: and
5. suspend or cancel registration and apply appropriate penalties if, on investigation, an institution has failed to comply with standards being followed by the rest of the industry.

The Minister for Education in another place gave a commitment that the indemnity scheme would not be introduced for a period of six months, and I also give members that assurance. When clause 14 is before the Chamber in Committee, I shall move an amendment to limit the options that were originally provided with respect to indemnity arrangements.

The Bill provides for different approaches to the registration and monitoring of statutory and non-statutory educational institutions, which is appropriate given that statutory providers are already regulated under other legislation. While both kinds of institution are required to comply with registration criteria, the statutory institution will be registered automatically on application, whereas the applications from non-statutory institutions will have to be considered for approval by the chief executive officer. Moreover the functions conferred by this Bill on the Chief Executive Officer of the Ministry of Education will be discretionary functions and will be concerned only with those affairs of the statutory providers which relate to full fee overseas students.

The Bill provides for an appeal to the Minister where the education institution is aggrieved by a decision of the chief executive officer under the Bill. Non-statutory providers or private

institutions will be required to appoint an auditor who will be expected to report any material irregularity in the affairs of the institution that relate to full fee overseas students. This provision is intended to ensure that the continuing financial viability and the management practices of private institutions are monitored regularly. Most statutory institutions are already covered by the requirements of the Financial Administration and Audit Act to conduct their financial affairs in specified ways.

Significant penalties have been incorporated into the Bill to deter operators from providing an education service in contravention of the legislation where the benefits potentially could far outweigh lesser penalties. The Bill includes provision for prosecution to cover the eventuality of a non-statutory institution offering a course to overseas students where registration has not been sought or where it has been sought but refused, suspended or cancelled.

I commend the Bill to the House.

Debate adjourned, on motion by Hon N.F. Moore.

GOVERNMENT RAILWAYS AMENDMENT BILL

Second Reading

Debate resumed from 21 November.

HON GEORGE CASH (North Metropolitan – Leader of the Opposition) [5.45 pm]: This Bill was introduced into this House by Hon Tom Stephens approximately one week ago. I shall now relate a little of the history of this Bill: Members would be aware that a similar Bill was introduced into this House late last year and was debated in this place on Wednesday, 18 October 1989. During the second reading stage the Opposition advised the Government that it was prepared to support the general principles of the Bill. The Government had claimed that these were to rationalise the accounting and financing control arrangements between Westrail and the State Treasury, and generally to improve the financial efficiency and management of Westrail's working capital requirements. In giving our general support to the intent of the Bill, we recognised that one of the major factors of the Bill was that it allowed Westrail to operate one major bank account rather than the considerable number it then operated. It was generally agreed that that would be an improvement in the efficiency and accountability of the organisation.

Members would be aware that during the Committee stage we reached the part of the Bill which dealt with State guarantees. This related to section 54 of the principal Act which considers the borrowing powers of Westrail and the legislative arrangements under which Westrail can grant guarantees on its own behalf, and the guarantee is supported by the State by way of the Treasurer. The Bill proposed that section 54 should undergo considerable change. Last year I raised the fact that the Bill – as does this one – created wide powers by which Westrail could grant State guarantees regarding almost any matter; that is, including those matters which were not necessarily connected with the management of Westrail's operation. Hon Graham Edwards handled the Bill in this Chamber on behalf of the Minister for Transport, and he did not seem to accept the argument advanced by the Opposition that the borrowing powers of Westrail were being significantly widened.

The ability for Westrail to grant State guarantees were being widened enormously. It was at that stage that debate in this House bogged down. The Opposition requested that the Minister report progress so that the matter could be discussed further. After some further debate that occurred and in due course the Bill was not proceeded with in 1989. The House was later prorogued and it has been necessary to introduce this Bill. When Hon Tom Stephens introduced the Bill last week, I commented to my colleague, Hon Max Evans, that I thought that, first, the second reading speech was the same as that given during 1989 and, second, that the Bill appeared to me – Hon Max Evans confirmed it – to be the Bill that we had not been able to agree to in 1989; that is, that the State guarantee and borrowing clauses proposed in the Bill were exactly the same. I admit that Hon Max Evans and I shook our heads and asked whether the Government ever listened to what is said in this place and why the Bill was being presented in this form.

I acknowledge that some hours later that day, Hon Tom Stephens became aware that the Bill did not represent the Government's true position in respect of State guarantees. He

circulated by way of a Supplementary Notice Paper various amendments to the Bill, which amendments deal with section 54 of the principal Act and to the areas of the Bill relating to State guarantees. It is not my intention to discuss the proposals outlined in the Supplementary Notice Paper because that will be done during the Committee stage of the Bill. Suffice it to say that the request we made in late 1989 was that the Treasurer be required to advise the House each time a guarantee had been effected by Westrail, and that now appears to be the case as stated in the Supplementary Notice Paper. In fact, one of the amendments that Hon Tom Stephens has indicated he will move is as follows –

> The Treasurer shall, as soon as practicable after a guarantee is given under this section –

That is, section 54D of the principal Act –

> – inform in writing the Clerk of each House of Parliament of the giving of that guarantee and shall, if requested by either House of Parliament to produce that guarantee for the information of the House, within a period of 60 days after the making of that request –
>
> (a) cause to be laid a certified copy of the document setting out that guarantee before that House; or
>
> (b) if that House is not sitting at the relevant time within that period, cause to be delivered a certified copy of the document referred to in paragraph (a) to the Clerk of that House.

For some time, the Opposition has expressed the view that there is a need for greater control and greater acknowledgement of the guarantees that are created from time to time by Government instrumentalities, agencies and departments. There is a need for the Parliament and the Government to be fully aware of the contingent liabilities that exist at any time in respect of guarantees that have been issued on behalf of the Government. The Opposition has expressed in this House previously the need for greater control and greater accountability and accounting of those guarantees that, in the end, bind the State. While these may not be the words that would have been chosen by us in respect of the accountability of guarantees issued, they are a clear indication by the Government that it recognises a need for greater accountability and the Opposition is prepared to support those additional amendments.

In general terms, our support for the Bill is based on the fact that the Government claims that greater efficiency will be generated in Westrail as a result of the changes to the banking arrangements – that is, the banking accounts – of the commission and that those efficiencies have been costed to have a positive effect of between $150 000 and $300 000 per annum. Had the Government agreed to the proposition that we advanced in respect of State guarantees last year – it is now 12 months since we discussed this matter – Westrail would be $150 000 to $300 000 better off. However, that was not the case. I advanced also at that time the question that, if it was recognised that such significant savings could be made in changing the banking arrangements of Westrail, why had the changes not been introduced earlier? However, that is in the past and we are now dealing with the Bill before the House.

I indicate our support for the general thrust of the Bill and my pleasure that there has been some recognition of the obligations that are created when guarantees are entered into by a State instrumentality and that the proposal advanced by Hon Tom Stephens in respect of the reporting of those guarantees has moved somewhat toward the position that we have been advocating for some time.

We accept the amendments relating to the requirement of Westrail to pay a profit to the Treasurer. The propositions advanced in the Bill appear to be similar to those that were agreed to by the port authorities one or two years ago in this House and the general principle of State agencies, instrumentalities or departments being required to pay a contribution of their profits to the Treasurer is a matter that the Opposition is prepared to support. The substantial losses that have been made by Westrail over a long period indicates that that profit is unlikely to be made in the immediate future. However, as I said in the Committee stage of the Budget this year when we discussed Westrail, it is my view that the administration of Westrail had been effective and efficient in recent years and that there was a genuine commitment by Westrail to improving the efficiency of the organisation. I said also that I looked forward to Westrail being able to generate a profit in the not too distant

future. However, I do not want that profit to be generated at the expense of closing down numerous railway lines in Western Australia.

Hon J.M. Brown: Any railway lines!

Hon GEORGE CASH: Yes, any railway lines, because, of all the railway lines that have been closed down over years by all Governments in Western Australia, it is very rare for another line to be opened along that same alignment.

Hon J.M. Brown: Perth–Fremantle is the only one that I know of.

Hon GEORGE CASH: That is right. Hon J.M. Brown reminds me of that line which was closed by a conservative Government some years ago and which was later reopened by a Labor Government. I will not enter into that debate because, if I did, I would have to refer to how much it costs per passenger mile to operate that line at the moment. I look forward to the Committee stage of the Bill.

Sitting suspended from 6.00 to 7.30 pm

HON TOM STEPHENS (Mining and Pastoral – Parliamentary Secretary) [7.30 pm]: I welcome the support of the Opposition. The Leader of the Opposition has correctly indicated to the House that the Government listened to the concerns expressed by the Opposition at approximately this time last year in debate on the same Bill, and has produced some amendments which will be dealt with at the Committee stage. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

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

Clauses 1 to 7 put and passed.

Clause 8: Sections 53A and 54A repealed and section 54 substituted –

Hon TOM STEPHENS: I move –

Page 4, line 29 – To delete "section 54B" and substitute the following –

this Part

Amendment put and passed.

Clause, as amended, put and passed.

Clause 9: Section 54B repealed and section 54B substituted –

Hon GEORGE CASH: I ask Hon Tom Stephens to explain to the Committee the reason for the proposed amendment on the Notice Paper, which he introduced some days ago, as a result of which this clause will be deleted.

Hon TOM STEPHENS: The amending Bill was drafted with the aim of introducing new, simpler provisions relating to Westrail's borrowing powers by repealing section 54B and substituting a new section 54B. However, after review it was considered that the proposed new section might be too open-ended, and the proposed amendment to the amending Bill will remove the clause to allow the present provisions to be retained.

Clause put and negatived.

Clause 10: Sections 54C and 54D repealed –

Hon TOM STEPHENS: I move –

Page 6, lines 4 to 20 – To delete the clause and substitute the following clause –

Section 54D amended

10. Section 54D of the principal Act is amended by inserting after subsection (3) the following subsections –

" (4) The Treasurer shall, as soon as practicable after a guarantee is given

under this section, inform in writing the Clerk of each House of Parliament of the giving of that guarantee and shall, if requested by either House of Parliament to produce that guarantee for the information of that House, within a period of 60 days after the making of that request –

(a) cause to be laid a certified copy of the document setting out that guarantee before that House; or

(b) if that House is not sitting at the relevant time within that period, cause to be delivered a certified copy of the document referred to in paragraph (a) to the Clerk of that House.

(5) In subsection (4), a reference to a certified copy of a document is a reference to a copy certified by the Treasurer to be a true copy of the original of the document."

The amending Bill was produced with the aim of introducing simpler provisions relating to financial contract guarantees. It was originally intended that clause 10 would repeal the provisions of sections 54C and 54D and the new provisions would be included in section 54A. The amendment now proposed to clause 10 allows the present provisions of sections 54C and 54D to be retained. In addition, the amendment seeks to improve the accountability for guarantees by adding a requirement to section 54D that the Treasurer inform the Parliament whenever guarantees are given, and make copies available whenever requested. This is the nub of the debate in which we were engaged some 12 months ago. The Government is moving the crucial amendments alluded to by Opposition members at that time.

Hon GEORGE CASH: The Opposition supports the amendment. This is the nub of the questions raised in this Committee 12 months ago. It is important to recognise that we are talking about the need for the Treasurer, as soon as practicable after a guarantee is given, to inform the Clerk of each House of Parliament in writing of the giving of that guarantee, and he shall if requested by either House of Parliament, produce that guarantee for the information of that House within a period of 60 days.

There are other subclauses in the amendment, but they deal with accountability which we have stressed in the past. I am pleased that the Government has decided to proceed with this amendment, which strengthens the Bill.

Hon DERRICK TOMLINSON: The Leader of the Opposition has indicated the general support of the Opposition for the Government's amendment, but the provision is that the Treasurer, if requested by either House of Parliament, should produce the guarantee for the information of that House within a period of 60 days. That is some eight or nine weeks. It seems a rather long time to give for the provision of documents which one would assume existed before the request was made. Other requests have to be met within 14 days. Eight or nine weeks means that a request made at the beginning of a session of Parliament may not be complied with before the end of that session. I would like some explanation of why the period of 60 days is necessary.

Hon TOM STEPHENS: This amendment was drafted by Treasury following its study of the Opposition's comments during the last debate on this Bill. Members will appreciate that the raising of loans will be a matter of particular interest to Treasury. Treasury recommended the period of 60 days. I am not aware of a similar provision in any other Act of a State Parliament dealing with something of that sort. We may be breaking new ground with this Bill. It is in that context that Treasury has recommended a 60 day period. "Within 60 days" could, in the normal course of events, be 59 days, or even one day. I hope that this number of days as a maximum will not cause the honourable member concern.

Hon Derrick Tomlinson: It does.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 11 put and passed.

Clause 12: Sections 54F, 54G, 54H, 54J, 54K, 54L and 54M repealed and sections 54EA and 54EB substituted –

Hon TOM STEPHENS: I move –

Page 7, line 1, to page 10, line 22 – To delete the lines and substitute the following clause –

Section 54EA inserted

12. Part IV of the principal Act is amended by inserting after section 54E the following section –

Payment of profit to Treasurer

"54EA. (1) The Treasurer may, after the end of any financial year, require the Commission to pay to him for payment into the Consolidated Revenue Fund such percentage of the net profit as he determines is appropriate and the Commission shall forthwith make that payment.

(2) For the purposes of subsection (1) –

(a) "net profit" means the net profit of the Commission as certified to by the Auditor General; and

(b) in the determination of net profit as defined by paragraph (a), full allowance shall be made for interest and appreciation of the assets of the Commission."

The Leader of the Opposition has asked me to explain the relevant section. Clause 12 is part of the proposal to simplify the provisions associated with Westrail's borrowing powers. Clause 12 of the amendment Bill was drafted to repeal sections 54F, 54G, 54H, 54J, 54K, 54L and 54M. However, this amendment seeks to retain the present provisions of these sections by deleting the existing clause 12. Clause 12 includes the new section 54EA to specify the conditions under which State guarantees could be issued. This is deleted as the present conditions are retained in section 54D as amended. Existing clause 12 also includes a new section, section 54EB, which allows the Treasurer to allow Westrail to pay a percentage of any profits which may be earned into the Consolidated Revenue Fund. The amendment to clause 12 retains this provision, renumbered as section 54EA.

The existing clause 12 also includes a number of transitional provisions relating to the repeal sections, but as these sections are restored under the amendment, the transitional amendments are not necessary. The amendment to clause 12 also adds a new clause to amend section 54J, and this amendment deletes reference to section 54A, which was repealed under clause 8 of this amendment Bill, and it substitutes this account for that account, which means that any floating charge shall be secured upon the new account introduced in the amendment Bill and the other assets of the commission.

Hon DERRICK TOMLINSON: I understand that if public utilities do not expend their revenue within any given financial year they lose their entitlement to the unspent funds; and if an agency of the Government makes a profit it is required to return a determined percentage of that profit to the Consolidated Revenue Fund. The total profit is not required to be returned, but a determined percentage of the net profit is. Unless the Government has now moved into the field of entrepreneurship in which agencies are expected to make a profit and if the profit is not returned to the State it is therefore not required to be returned to Consolidated Revenue, it seems that 100 per cent is the appropriate percentage to be returned. Why is a determined percentage of the net profit to be returned rather than the whole profit?

Hon TOM STEPHENS: It may be that Treasury will read the comments of Hon Derrick Tomlinson and be persuaded that from now on 100 per cent of profit should be returned to the Consolidated Revenue Fund. However, I am advised that Westrail will retain the funds for capital expenditure items. In an effort to run a more effective corporate style management system Westrail is convinced that this arrangement is in its interest. Westrail has successfully prevailed on Treasury for this formula of words to be included in the amendment.

Hon DERRICK TOMLINSON: Unlike Hon Tom Stephens I have no Messianic delusions of grandeur. I do not believe I am the way, the truth and the light. I do not think Treasury will take great heed of what I say in this Committee and, therefore, I would not rely on Treasury reading my words and being convinced that the sum to be returned should be 100 per cent of the profit. I would prefer that it be indelible in this legislation that an agency of the Government not be allowed to accumulate funds which are non accountable directly through the Consolidated Revenue Fund.

While I appreciate that Westrail may find it comfortable to have a fund which is separate from the CRF, it will not be constrained by the accountability requirements of the CRF. Western Australia has had some experience in the past few years of Government agencies which have had access to funds which have not been subject to the constraints of accountability. Unfortunately, those funds have been abused. In spite of the reassurance by the Parliamentary Secretary that Treasury may take note of my words it is essential that it be indelible in the legislation that funds be accounted for through the Consolidated Revenue Fund and not be allocated to some cushioned account under the control of an agency of Government.

Hon TOM STEPHENS: I assure the member there is no attempt on the part of the Government to provide a cushion account; the Bill will not do that. The Bill is a reflection of the mood of the Government which is in the opposite direction to which the member points of any attempt at an entrepreneurial style of operation that would allow for concerns of this kind to be justified. The Opposition, particularly the National Party, and clearly members on our side of the Chamber regularly argue about the need for Westrail to improve its game with improved equipment to operate the Westrail network. Westrail must have access to capital funds for that capital expenditure. This clause of the Bill allows that. It will allow Westrail to avoid operating on debit capital.

Hon GEORGE CASH: I support the remarks made by my colleague Hon Derrick Tomlinson.

Hon T.G. Butler: But not quite as loudly.

Hon Derrick Tomlinson: Speak up, Hon Tom Butler cannot hear you.

The CHAIRMAN: I can hear everyone. The member will not have any trouble with my not hearing him.

Hon GEORGE CASH: The arguments put by the Parliamentary Secretary, Hon Tom Stephens, are academic because at the moment Westrail is not making a profit. If in due course it does make a profit this legislation will be similar to the legislation that was passed which dealt with the port authorities in Western Australia. It will provide another opportunity for Treasury to determine that a certain amount of money be paid to the Treasury.

The matter I find lacking in this amendment – although it does not cause me great stress – is that, as I recall, in the port authority legislation an appeal provision is available to a Government agency if it is not happy with the determination made by the Minister. However, there is a move towards Government instrumentalities being made to pay a portion of their profit – if they make a profit – to CRF. The Opposition has spoken for many years about the need for Government authorities to be not only more efficient but also more effective and profitable in their dealings with the taxpayers' moneys.

Hon TOM STEPHENS: I thank the Leader of the Opposition for more succinctly putting the case for the amendment than I, and for drawing attention to the operations of Westrail. I undertake to draw to the specific attention of the Minister for Transport the provision in another Statute that might be usefully included in this Act, insofar as it relates to Westrail's operations. I will ensure also that the Minister's attention is drawn to that suggestion in order to allow consideration of its future incorporation in this Act, just as previous suggestions of the Opposition have now been incorporated.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 13 to 15 put and passed.

New clause 13 –

Hon TOM STEPHENS: I move –

Page 10, after line 22 – To insert the following clause –

Section 54J amended

13. Section 54J of the principal Act is amended by deleting –

(a) "referred to in section 54A of this Act"; and

(b) "that Account" and substituting the following –

"the Account".

Hon GEORGE CASH: This amendment is consequential to the amendments already carried this evening. The Opposition supports the new clause.

New clause put and passed.

Title put and passed.

Bill reported, with amendments.

SOUTH WEST DEVELOPMENT AUTHORITY AMENDMENT BILL

Second Reading

Debate resumed from 17 October.

HON GRAHAM EDWARDS (North Metropolitan – Minister for Police) [8.05 pm]: A number of contributions have been made to the lengthy debate of the South West Development Authority Amendment Bill in this House. I am disappointed that the Opposition has indicated that it will oppose some areas of the Bill. I note the amendments listed on the Notice Paper by the Opposition. The Government has also listed some amendments which flow from advice received by Parliamentary Counsel following the acceptance of amendments in another place. Parliamentary Counsel has suggested that the amendments should take a more suitable parliamentary form and that the intention of the amendments be spelt out properly. I will move those amendments at a later stage. Debate has been wide ranging and many issues concerning the south west of this State have been touched upon; indeed, debate was broader in content than the thrust of the Bill.

The Opposition accused the Minister for South-West of not undertaking consultation. To outline the history of the Bill, in 1989 the then Minister for South-West stated that the board of the South West Development Authority would be increased to include a person representing the Peel region and that a Peel advisory committee would be established and be responsible to the South West Development Authority board. He also advised that the Shire of Boddington, at its request, would be taken into the south west area as part of the Peel region and would therefore be serviced by the South West Development Authority. Action was taken to meet that intention. Nominations were called for a Peel region advisory committee.

The Mandurah office of the South West Development Authority, in line with the SWDA philosophy of maintaining a close and ongoing contact with local government, particularly in the south west, canvassed the four authorities of the region – Boddington, Mandurah, Murray and Waroona – to ensure that the sitting councils nominated persons for membership of the proposed advisory council. I am advised that at least one councillor from each council nominated a person, that one person had previously been a member of the existing South West Development Authority advisory committee which serviced the whole south west region, and that all nominees had an understanding of the objectives of the Peel advisory committee. They had been briefed by the South West Development Authority's Mandurah office and had an ongoing working relationship through the respective councils with the Mandurah office.

I further understand that the then Minister was challenged by the Opposition, which claimed that the establishment of the Peel advisory committee under the current Act was not possible. The Minister for South-West, David Smith, considered the objections and accepted that the Opposition was correct.

Hon Barry House: The Minister is referring to the expansion of the board, not the advisory committee; somebody has it wrong.

Hon GRAHAM EDWARDS: Hon Barry House has it wrong.

Hon Barry House: The board was expanded to seven members, but that was later reduced.

Hon GRAHAM EDWARDS: I am sure Hon Barry House has it wrong. He said there was no consultation and that the first time local government heard about this matter was when he delivered a Bill to them.

Hon Barry House: The consultation was completely inadequate because the councils did not see the legislation until Opposition members gave them copies.

Hon GRAHAM EDWARDS: I accept that they did not see the Bill, but Hon Barry House made the accusation that there was no consultation.

Hon Barry House: I said that the consultation was inadequate.

Hon GRAHAM EDWARDS: But there had been perfectly adequate consultation and I explained why. Local authorities nominated people to serve on that committee.

Hon Barry House: Will the Minister agree that the consultation was inadequate?

Hon GRAHAM EDWARDS: I agree that the councils did not see the Bill, but they certainly had been advised of its contents.

Hon Barry House: The contents of a Bill are often totally different from the proposals put forward in the consultation process.

The PRESIDENT: Order!

Hon GRAHAM EDWARDS: I do not accept that. Hon Barry House has nowhere to go on this one; it is as simple as that.

Hon Barry House: The Bill does not specify a Peel advisory committee.

The PRESIDENT: Order!

Hon GRAHAM EDWARDS: It may well be that the Bill does not specify a Peel advisory committee, but certainly the Minister in his discussions with local authorities has specified that. The Minister is on record as having said that the only committee he was interested in establishing was the Peel advisory committee. It is still his intention, notwithstanding the forecasts from members opposite who have indicated they will knock out the clause. The Minister has given the assurance –

Hon Murray Montgomery: It does not say that in the Bill.

Hon GRAHAM EDWARDS: – to establish the one committee. I accept the fact that members opposite have white-anted the Government and have eroded the Minister's position. Those members may well be looking to take some kudos from that and some political pats on the back, but they cannot deny that the Minister has given an assurance that local authorities have been consulted. Evidence of that is that individual councils have nominated people to the advisory committee.

Hon Barry House: Why doesn't the Government put up an amendment?

Hon GRAHAM EDWARDS: We are talking about consultation, so I ask Hon Barry House and Hon Murray Montgomery how many times have they gone into the Mandurah office of the South West Development Authority to seek some briefing or to consult with the officers?

Hon P.G. Pendal: That is not relevant.

Hon Barry House: Opposition members received a briefing recently with the South West Development Authority.

Hon P.G. Pendal: Ten days ago.

Hon GRAHAM EDWARDS: Members opposite do not even know where the office is. It is evident that Hon Barry House needs some support, but if he wants credible support he needs to look further than Hon Phillip Pendal.

Hon P.G. Pendal: Hon Graham Edwards reduces everything to a common denominator in every debate he handles.

Hon GRAHAM EDWARDS: I understand that neither Hon Phillip Pendal nor Hon Barry House have been to the Mandurah office of the South West Development Authority. When those members come into this place and talk about consultation –

Hon P.G. Pendal: We were at Bunbury the week before.

Hon T.G. Butler: That is not Mandurah.

Hon P.G. Pendal: They talked about Mandurah.

Hon Murray Montgomery: Will the Minister make the same comment about me?

Hon GRAHAM EDWARDS: I give credit to Hon Murray Montgomery. As the new member for that very important region he sought a briefing – as I would have thought appropriate for a new member to do – from officers of the South West Development Authority in Mandurah. The National Party is that much further in front of the Liberal Party in the bush. That seems to be a fairly regular occurrence. I will not extend this debate into a slanging match. I listened intently, as I always do, when members of the Opposition were speaking to the Bill, and given the wide ranging nature of the debate I will respond to some of the concerns that were raised. I felt that I should pick up on the matter of consultation. I have noted the amendment that the Opposition has listed on the Notice Paper, and I will give a further explanation of the Government's proposed amendment in Committee.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon Graham Edwards (Minister for Police) in charge of the Bill.

Clause 1: Short title –

Hon BARRY HOUSE: The Opposition will move to delete the references to separate advisory committees and to adjust the period of review of the South West Development Authority.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Long title amended –

Hon BARRY HOUSE: This clause provides for the establishment of area advisory committees and the Opposition wishes to remove that reference. The references are not specific and the existing Act already provides for the Minister to appoint subcommittees to either advisory committees or to the board to perform the functions that it is purported the separate area advisory committee will perform.

Hon GRAHAM EDWARDS: This is getting to the crux of the matter. If the Opposition votes against this clause it will rob the local community of the opportunity to have an area advisory committee, as the Government believes it rightly should. It is important to reiterate at this stage of the debate the public statement by the Minister, which clearly says that the only advisory committee he is looking at is the Peel advisory committee. The Minister for South-West is of the opinion that it is appropriate that there be a Peel area advisory committee. The area already has a population of 47 000 people and the population is increasing rapidly, so there is a strong case for the establishment of an advisory committee to better address and resolve the issues arising in that area. On this clause the Opposition will be put to the steel and we will find out whether it intends to prevent the establishment of area advisory committees.

Hon MURRAY MONTGOMERY: The Minister has come to the crux of the matter. The Bill does not specify that an advisory committee will be established in the Peel area. It puts forward the proposition for an area advisory committee, but it does not say where it will be established and that is where the problem lies. The Minister has indicated that at this stage he has only one area advisory committee in mind, but we do not know what else he has in mind. The Minister can say whatever he likes, but it is not stated specifically in the Bill that it will be the Peel area advisory committee.

Hon BARRY HOUSE: I support Hon Murray Montgomery's remarks. The Minister gave the game away when he said that at this stage the Minister for South–West intends to set up only the Peel advisory committee. That is precisely the point.

Hon B.L. Jones: The future may demonstrate a need for an advisory committee elsewhere.

Hon BARRY HOUSE: If that is the case I anticipate there will be a separate development authority for the Peel area.

The Liberal and National Parties were miles in front of the Government at the last election because they proposed a separate Peel region development authority. The Minister has given us the relative statistics and there can be no doubt that the population in the Peel region is increasing rapidly and that region needs and deserves its own infrastructure. I repeat that we were miles ahead of the Government at the last State election in proposing a separate authority for this region.

Hon B.L. Jones: In due time and when the population warrants it.

Hon BARRY HOUSE: We believe it warrants it now; that is where the parties differ.

I point out to the Chamber another area in which the Government has been inconsistent. A couple of weeks ago we passed legislation which established the Goldfields–Esperance Development Authority. It was different from the other regional development authorities which have been established in this State and in addition to the board management two advisory committees were set up. However, the Bill clearly specified what areas those two advisory committees would represent. One will represent the northern part of the Goldfields–Esperance Development Authority and the other will represent the Esperance–Ravensthorpe area. If the Government were consistent and it did not have any other motives it would have presented an amendment to this Chamber which specified that the committee referred to in this Bill would be known as the Peel area advisory committee and it would not leave it open to possible abuse of area advisory committees in the future. Therefore, I cannot support the establishment of a separate area advisory committee.

Hon GRAHAM EDWARDS: Far from the Government being inconsistent the member who has just resumed his seat has indicated how divisive is this Opposition and how it seeks to segregate different parts of this State. With reference to the Goldfields–Esperance Development Authority legislation, the Opposition supported the establishment of two separate advisory committees.

Hon Barry House: They were specifically named.

Hon GRAHAM EDWARDS: Whether it was written into the Bill is immaterial.

Hon Barry House: It is not immaterial; it is very important.

Hon GRAHAM EDWARDS: The Opposition supported the appointment of two area advisory committees in the goldfields region. It is prepared to extend to the goldfields something which it is not prepared to extend to the area covered by the South West Development Authority. How the Opposition can seek to accept area advisory committees in one authority and deny them in another is completely beyond me.

I make it clear that the Minister for South–West has pointed out that the Peel area advisory committee is the first step towards having a separate development authority for the Peel region. On the one hand the Opposition is saying it is in front of the Government and is prepared to establish a separate development authority for the Peel region, but on the other hand it is refusing the first step towards that happening. Who can take the Opposition's word and who can possibly have any faith in what it says? The Opposition consistently says one thing and when it has the opportunity to demonstrate it means what it says, it shies away from it. It is another example of the Opposition saying one thing and doing something else.

Hon MURRAY MONTGOMERY: The Minister has missed the point. He appears to be saying that it does not matter what is written into the Bill because the Government knows what it wants to do, but it will not spell it out. It is not spelt out in the Bill that it will be the Peel area advisory committee. The Government has said it wants an area advisory committee and it could go anywhere; for example, Manjimup, Busselton, Margaret River or Boyup Brook. If the Minister moved an amendment which stated that the area advisory committee would be known as the Peel area advisory committee, we would agree to it.

Hon BARRY HOUSE: The Minister's previous comments confirm what I have suspected for a long time; that is, members on the Government benches do not read the legislation that is presented to this Parliament. They do not realise the implications of the legislation. It appears they are content to consider a proposal for a development authority by reading the Minister's second reading speech but they ignore the actual legislation, which is vital. The reason we are in this Parliament is to scrutinise legislation and to make it watertight to ensure that it performs the function it is proposed to perform. This legislation will not perform the function proposed by the Minister and it will leave it open for all sorts of unforeseen circumstances in the future. That is the reason the Opposition cannot support the legislation. I support Hon Murray Montgomery's comment that if this legislation specifically quoted the Peel area advisory committee it would receive our support tonight.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Before I put the question I advise members that they should bear in mind that Hon Barry House has an amendment on the Notice Paper which is, at this stage, unnecessary. If members want the clause to remain as it stands in the Bill they will have to vote yes and if they want it deleted they will have to vote no.

Clause put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Before the tellers tell, I cast my vote with the Ayes.

Division resulted as follows –

	Ayes (12)	
Hon J.M. Berinson	Hon Kay Hallahan	Hon Bob Thomas
Hon J.M. Brown	Hon Tom Helm	Hon Fred McKenzie
Hon T.G. Butler	Hon B.L. Jones	*(Teller)*
Hon Cheryl Davenport	Hon Garry Kelly	
Hon Graham Edwards	Hon Tom Stephens	
	Noes (13)	
Hon J.N. Caldwell	Hon Peter Foss	Hon P.G. Pendal
Hon George Cash	Hon Barry House	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon P.H. Lockyer	Hon W.N. Stretch
Hon Reg Davies	Hon N.F. Moore	*(Teller)*
Hon Max Evans	Hon Muriel Patterson	

Pairs	
Hon John Halden	Hon Margaret McAleer
Hon Doug Wenn	Hon D.J. Wordsworth
Hon Mark Nevill	Hon R.G. Pike
Hon Sam Piantadosi	Hon Murray Montgomery

Clause thus negatived.

Clause 5: Section 3 amended –

Hon BARRY HOUSE: I move –

Page 2, lines 13 to 19 – To delete paragraph (a).

Hon GRAHAM EDWARDS: I said at an earlier stage of the Committee debate that we would ascertain the strength of the Opposition's feelings on this matter; that has now been tested. The Government opposes the amendment but we will not divide the Committee because these amendments are now consequential to the first division which was called for.

Hon BARRY HOUSE: As a consequence of the deletion of the previous clause, the definitions of area advisory committee and so on are no longer required.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 6: Section 5 amended –

Hon GRAHAM EDWARDS: I move –

Page 3, lines 9 to 17 – Add after clause 5 the following new clause to stand as clause 6 –

Section 5 amended

6. Section 5 of the principal Act is amended by repealing subsection (1) and substituting the following subsection –

"(1) The Authority shall have a board of management comprising –

(a) a chairman;

(b) a deputy chairman;

(c) the Executive Director by virtue of his office; and

(d) not more than 4 other members."

The reason for my amendments is that the Opposition moved an amendment in the Legislative Assembly to require that at least one of the four ordinary members of the board of management be appointed to represent local authorities in the south west region. The Opposition did not, however, suggest any procedure by which this could be done. The Minister in the other place accepted the Opposition's proposal and moved a consequential amendment which would use the procedure used elsewhere in the Bill to appoint a local government person. Subsequent to that, Parliamentary Counsel advised that it would be preferable to spell out the procedure. Therefore, clause 6 will now amend section 5 of the Act to increase the number of members to up to seven, comprising a chairman, a deputy chairman, the executive director, and up to four members. Clause 7 explains how those persons will be appointed.

Hon BARRY HOUSE: I indicate our support for the Minister's amendments. I understand the reasons behind them. The addition to the original clause was inserted in the other place at the request of the Opposition to ensure that some of the representation on the board came from local government authorities. It was important to us to provide a conduit or a bridge between the South West Development Authority and local authorities.

Hon MURRAY MONTGOMERY: The National Party supports this amendment. We do not have any problems with it.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 7: Section 6 amended –

Hon GRAHAM EDWARDS: I move –

Page 3, line 20 – To delete "and" at the end of paragraph (a).

Page 3, lines 21 to 25 – To delete paragraph (b) and substitute the following –

(b) in subsection (2) by deleting "The deputy chairman and other member referred to in section 5(1)" and substituting the following –

"Subject to subsection (2a), the members of the Board referred to in section 5(1)(a), (b) and (d)";

(c) by inserting after subsection (2) the following subsections –

"(2a) Where –

(a) one person is appointed as a member of the Board referred to in section 5(1)(d), that person; or

(b) 2 or more persons are appointed as members of the Board referred to in section 5(1)(d), one of those persons,

shall be a person nominated by the Minister in accordance with subsection (2b).

(2b) For the purposes of subsection (2a), the Minister shall –

(a) simultaneously request each local authority in the South West Region to join with every other local authority in that region in submitting to the Minister a panel of the names of 3 councillors able and willing to be nominated for appointment to the Board; and

(b) nominate from the panel of names so submitted a person for appointment to the Board.

(2c) If a panel of names is not submitted to the Minister within 21 days of the making of the relevant request under subsection (2b)(a), the Minister may nominate a suitable person for appointment to the Board and a person so nominated shall be deemed to be duly nominated under subsection (2b). ";

and

(d) by inserting after subsection (4) the following subsection –

(5) In subsection (2b) –

"councillor" means a member of the executive body of a local authority in the South West Region."

This clause provides the procedure for the appointment of those people whom we have agreed shall comprise the board members. It requires that at least one of the possibly four ordinary members shall be appointed following nomination from local government by each of the local authorities being asked to nominate a panel of three names. The Minister then chooses one of those persons to be the local government representative on the board. This is the procedure which is already in the Act in at least one other place to cater for the needs of local authorities.

Hon BARRY HOUSE: The Opposition supports the amendment, as it spells it out much more clearly and is consistent with clause 30 of the original legislation.

Hon MURRAY MONTGOMERY: The National Party supports the amendment as it believes local authorities throughout the region should have at least one member on the board. This just goes to show that when drafting a Bill one does not always get it right the first time.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 8 to 12 put and passed.

Clause 13: Section 21 amended –

Hon BARRY HOUSE: I move –

Page 5, lines 12 to 22 – To delete the lines.

This is another consequential amendment necessary once the original amendment to delete the reference to separate area advisory committees was passed.

Hon GRAHAM EDWARDS: The Government has already made its position clear in relation to the subsequent and consequential amendments of the Opposition following the decision which was made earlier by this Committee.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 14: Part IIIA inserted –

Hon BARRY HOUSE: This is the main clause in the Bill explaining the area advisory committees and it is now no longer required. I therefore ask members to vote against the clause.

Hon GRAHAM EDWARDS: Once again, the Government has made its position clear in relation to these subsequent amendments.

Clause put and negatived.

Clause 15: Section 38 amended –

Hon BARRY HOUSE: I move –

Page 7, line 22 – To delete "5 years" and substitute the following –

3 years

The amendment on the Notice Paper was to substitute "2 years". The reason for altering the amendment is that this legislation has been on the Notice Paper for almost 12 months. Originally the review would have come up, according to our amendment, in 1992 and under the Government's proposals it would have been in 1995. We believe 1995 is too long after the first review of the South West Development Authority, which took place in 1988, and it is a fair compromise to split the difference as accurately as possible. As the amendments have been on the Notice Paper for so long now, by the time this Bill is proclaimed 1993 will be a reasonable time to have the review, rather than 1992.

Hon GRAHAM EDWARDS: The Government opposes this amendment as it believes that five years is an appropriate time to elapse before a review is carried out, and the Minister will carry out a review of the operation and effectiveness of the Act at that time. I do not agree with Hon Barry House that because a review occurred in 1988 another should occur in 1993, and I understand that is the purpose of the Opposition's amendment. As a review was carried out in 1988, I see absolutely no good reason why we should attempt to bring forward the next review.

Hon BARRY HOUSE: The reason for our objecting to the five year period is simply that it is too long between reviews. Initially the Act set down that reviews were to be at four-yearly intervals, and the first review took place in 1988. As a result of that review this legislation has come to the Parliament and it has taken two years to clean up the situation since that review. Therefore we believe a five year period from proclamation is too long, but a three year period is fair and reasonable.

Amendment (deletion of words) put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Before the tellers tell I give my vote with the Noes.

Division resulted as follows –

	Ayes (13)	
Hon J.N. Caldwell	Hon Peter Foss	Hon P.G. Pendal
Hon George Cash	Hon Barry House	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon P.H. Lockyer	Hon W.N. Stretch
Hon Reg Davies	Hon N.F. Moore	*(Teller)*
Hon Max Evans	Hon Muriel Patterson	
	Noes (12)	
Hon J.M. Berinson	Hon Kay Hallahan	Hon Bob Thomas
Hon J.M. Brown	Hon Tom Helm	Hon Fred McKenzie
Hon T.G. Butler	Hon B.L. Jones	*(Teller)*
Hon Cheryl Davenport	Hon Garry Kelly	
Hon Graham Edwards	Hon Tom Stephens	

Pairs	
Hon Margaret McAleer	Hon John Halden
Hon D.J. Wordsworth	Hon Doug Wenn
Hon R.G. Pike	Hon Mark Nevill
Hon Murray Montgomery	Hon Sam Piantadosi

Amendment (deletion of words) thus passed.

Amendment (insertion of words) put and passed.

Clause, as amended, put and passed.

Clause 16: Schedule 1 amended –

Hon BARRY HOUSE: I reiterate the Opposition's support for the inclusion of the Shire of Boddington in the South West Development Authority's area of influence. This has been done at the request of the people of the area, and a good working relationship has been established with these people and the people of the South West Development Authority. This inclusion adds more weight to the creation of a separate authority. I support the clause.

Hon GRAHAM EDWARDS: The Boddington Shire requested that it be considered as a part of the South West Development Authority's region. This request stems from a very strong practice developed by the authority of consulting with local authorities and including them in the work of the authority. This stems also from the people of the region having a good regard for the South West Development Authority and the Minister for South-West, Mr David Smith.

Clause put and passed.

Clause 17 put and passed.

Title put and passed.

Bill reported, with amendments.

MINES REGULATION AMENDMENT BILL

Second Reading

Debate resumed from 20 November.

HON N.F. MOORE (Mining and Pastoral) [8.57 pm]: This Bill has been around for quite a long time. It was introduced into the Legislative Assembly in 1989 and passed through that House and arrived in this Chamber at the end of the autumn session in 1989. It was given a second reading prior to Christmas and it then disappeared; like a great deal of legislation, it sat on the Notice Paper and was not dealt with. Therefore, I wonder why this Bill is being considered so late in this session, bearing in mind that the Government now intends to proceed with it – otherwise, I would not be speaking now. Maybe the Parliamentary Secretary handling the Bill will explain why it is that we are dealing with the Bill in the dying days of the session, as occurred last year. He might also tell me whether the Bill is identical to the 1989 Bill.

This legislation was introduced into this House last Thursday, and to assist with the smooth running of this House I agreed to speak on it tonight; therefore I have not had an opportunity to compare this Bill with the 1989 legislation. I am advised by people who take an interest in these matters that this Bill creates no problem, but I would like information on the issues I raise, such as why was the legislation introduced into the Legislative Council and not the Legislative Assembly, where the Minister for Mines resides?

The Bill had its gestation during a very difficult period for the mining industry, when safety matters caused considerable disquiet. Members who take an interest in the goldmining industry would know that during the last five years an enormous increase occurred in the number of goldmining developments throughout Western Australia. This rapid expansion in the industry meant that the expertise available to mining companies – people such as engineers, planners and mechanics – was at a premium. The mining companies' ability to obtain the best employees was stretched, and as a consequence a number of accidents occurred which regrettably led to deaths in a number of cases. As a result of that problem, an explosion occurred in the number of casualties from mining accidents. The unions in particular called for the mining industry to be brought under the umbrella of the Occupational Health, Safety and Welfare Act. When that Act was passed through Parliament the mining industry was deliberately deleted from the auspices of the legislation. The Government, the Opposition and the industry believed that the expertise of the Department of Mines was such that it was the organisation best placed to ensure that safety issues were looked after. It was considered that the new Department of Occupational Health, Safety and Welfare did not have the expertise or experience to look after the mining industry.

The Government was in somewhat of a dilemma when the spate of accidents occurred in the

mining industry, particularly the goldmining industry, bearing in mind the pressure that was being put on it by the various unions. The suggestion put forward by the unions that the industry should be brought under the auspices of the Department of Occupational Health, Safety and Welfare was widely opposed by the mining industry. The Government was in a quandary because it, too, like the Opposition, was concerned that some unions would use the occupational health, safety and welfare legislation for reasons other than safety matters. It is regrettable that the predictions made in this House when that legislation was passed have come about. When we debated the Occupational Health, Safety and Welfare Bill, the Opposition argued that the legislation would be used by some militant unions to bring about industrial disputation on spurious safety and welfare grounds. That has come to pass in some industries. When the problems in the mining industry became severe the Government was concerned that the unions would do what they have done in other industries. That was also the concern of the Opposition and definitely the concern of the mining industry. A lot of to–ing and fro–ing went on between the Government, the unions and the mining industry to see if some compromise could be reached.

What developed out of that compromise was the Bill that was introduced into the Parliament last year. The Bill got as far as the second reading in this House but was not proceeded with. At the time I asked the Minister whether the Bill would proceed in that session bearing in mind an article in the *Daily News* indicating that the now Deputy Premier, Mr Taylor, had indicated to the unions that the Bill would be withdrawn because of their objections. That is why I asked the Parliamentary Secretary handling the Bill to let me know whether there has been a change in the legislation since last year, or a change in the minds of the unions who were so strongly opposed to the Bill in December 1989. As I said the Bill is a compromise, and one can only assume that the unions have agreed to the compromise, and that the legislation has been brought forward on that basis. It has been accepted by the industry, although like the Opposition it is concerned that the contents of the legislation and the way in which these committees have been set up may be used by some unscrupulous union leaders to cause industrial disputation, which has nothing to do with health, safety or welfare.

Because the legislation is a compromise the Bill is an amendment to the Mines Regulation Act which will place in the Act parts III and IV of the Occupational Health, Safety and Welfare Act. It has been done that way as a compromise rather than simply bringing the mining industry under the auspices of the Occupational Health, Safety and Welfare Act. In other words, the mechanisms of the Occupational Health, Safety and Welfare Act apply to the mining industry, but health, safety and welfare issues remain the responsibility of the State Mining Engineer and his department rather than under the Department of Occupational Health, Safety and Welfare. The Bill is acceptable to the mining industry because it retains the pre–eminent role of the State Mining Engineer in health, safety and welfare matters rather than bringing in the relatively new Department of Occupational Health, Safety and Welfare.

Members who take an interest in these matters will know the details of the operation and practice of the Occupational Health, Safety and Welfare Act. The second reading speech details the mechanics, and I will not go through those now, except to say that they are virtually identical to arrangements that apply to other industries that come under the auspices of the Occupational Health, Safety and Welfare Act. It talks about the way in which safety representatives and health and safety committees are appointed. The second reading speech details the rationale behind the legislation and the mechanics of how it will operate. It is a pity it did not tell us something about the background to the Bill. It told us a lot about what is in the Bill in fairly technical detail, but it did not give any indication of the way in which the Bill germinated, the way in which the compromises had been reached, or why the Bill was not proceeded with last time and is being proceeded with this year. It did not tell us about those general matters, which are of great significance when we consider whether we should pass this legislation at this time. It did not tell us whether the unions had changed their minds and, if they had, how that came about. I hope that some of those questions might be answered at the conclusion of the second reading debate, so that we will be in a better position to know the circumstances which lead to this Bill being introduced now.

The Opposition has been concerned ever since the Occupational Health, Safety and Welfare Act was passed by the Parliament that some unions would decide to use that Act to gain control or advantage over industry by claiming that safety issues were problems when

perhaps they were not. Because the mining industry is prepared to accept this compromise, the Opposition is prepared also to accept the compromise bearing in mind that there was a need certainly for much greater consideration to be given to the problems of safety in the mining industry.

The mining industry is, by its nature, a dangerous industry. People who work in it would normally expect the hazard level to be greater than in many other industries. However, even taking that into account, the safety record of most mining companies in Western Australia is very good. In fact, when one compares it with other industries, it comes out extremely favourable bearing in mind the relatively dangerous nature of the industry. However, it should be acknowledged that, for a couple of years in the goldfields especially, there were a number of fatalities and we cannot sit back and say that was bad luck; something must be done about it. I hope that what is being done about it in this Bill will assist in making the mining industry a safer industry for the people involved in it.

Again, I hope the unions – the Parliamentary Secretary will advise us about this – are prepared to accept this legislation in the proper spirit and that it will not be used by people like Bill Ethell and company to stop mining taking place. At a time like this, the country desperately needs its mining activities to operate at 100 per cent productivity. It is a disgrace to find that Hamersley Iron Pty Ltd which is about to expand its operations is virtually closed for weeks by union activity and militancy. It brings back memories of the old days when the company was closed more than it operated.

It is for those reasons, when one looks back into the history of the iron ore industry especially, that the mining industry is concerned about the possible ramifications of this legislation and the possible consequences of some of the more radical union leaders using it for industrial purposes rather than for safety purposes.

As I said, if we are writing into legislation tonight provisions which will promote and assist militant union leaders to cause more havoc in the mining industry than currently exists, we will be doing this nation a grave disservice. I want assurances from the Government that it does not expect the unions to use the legislation in that way as has happened in the building industry. I know that the Parliamentary Secretary handling the Bill has equal enthusiasm for the mining industry that I have, bearing in mind that he and I share the same electorate and we realise also the necessity for this country to develop its export industries, and the most successful export industry at the present time in Australia, particularly in Western Australia, is the mining industry.

It would be an absolute disgrace if the Bill, when passed, is used by crazy unionists to disrupt that industry.

This is important legislation. Most of the contents of the Bill are technical. The important issues of the Bill are the way it arrived here, whether the unions are prepared to accept it in the proper spirit and whether the whole introduction of the Bill will lead to a safe work place for those hundreds of people employed in the mining industry. I look forward to hearing the comments of the Parliamentary Secretary at the end of the second reading debate.

Debate adjourned, on motion by Hon J.N. Caldwell.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE AMENDMENT BILL

Second Reading

Debate resumed from 20 November.

HON N.F. MOORE (Mining and Pastoral) [9.14 pm]: This Bill is consequential upon the Mines Regulation Amendment Bill. As I explained during my speech in the second reading debate on that Bill, the purpose of the Bill is to bring certain provisions of the Occupational Health, Safety and Welfare Act under the auspices of the State Mining Engineer.

It is necessary, therefore, to amend the principal Act to take into account the changes made in the Mines Regulation Act. The changes contained in this Bill, therefore, are consequential and the Opposition supports them.

Debate adjourned, on motion by Hon J.N. Caldwell.

WORKERS' COMPENSATION AND ASSISTANCE AMENDMENT BILL

Second Reading

Debate resumed from 21 November.

HON FRED McKENZIE (East Metropolitan) [9.18 pm]: This legislation has been in the Parliament for some time and I support it. The Bill contains many amendments which are very important to workers and to industry. For that reason, we have been a long time in giving consideration to the measures contained therein.

Workers' compensation is always a thorny issue because of the costs associated with it. Members will be aware of the deliberations of the premium rates committee in relation to premiums applied, which vary from one industry to another.

Hon J.M. Brown: How often does it meet?

Hon FRED McKENZIE: It meets at least once a year and at other times as necessary. Nevertheless, the rates are geared to the type of industry and the accidents that occur in it. It is important, therefore, that educational safety programs are introduced so that workers become educated in the hazards of their industries and can then take preventive measures to ensure that accidents do not occur so that the benefits flow back to the industry by way of lower premiums. We all benefit from that particular exercise.

I refer to the need for rehabilitation, which is another very important aspect. It is necessary for workers to be rehabilitated following injuries sustained in the workplace. Members opposite will, no doubt, indicate their feelings on the subject of rehabilitation. From my perspective it is very important, especially when one considers the difficulties of people injured in the workplace who are not able to return to their former employment. Rehabilitation and retraining for some other form of employment is important. These days we find that much more interest is being taken in this aspect of workers' compensation. With those few words I indicate my support for the Bill. It is a very important measure and I hope it will have a speedy passage through this House.

Standing Orders Suspension

On motion without notice by Hon Tom Stephens (Parliamentary Secretary), resolved with an absolute majority –

> That so much of Standing Orders be suspended as is necessary to enable Hon George Cash (Leader of the Opposition) to continue his speech in this debate.

Debate Resumed

HON GEORGE CASH (North Metropolitan – Leader of the Opposition) [9.23 pm]: Firstly, I thank the House for extending me the courtesy of allowing me to resume my speech where I left off the other day when discussing the Workers' Compensation and Assistance Amendment Bill. I should explain to the House that one of the reasons I was not available when the Bill was called on was that I was negotiating certain amendments to the workers' compensation Bill with the Minister, Hon Kay Hallahan, members of the Labor Party and Hon Eric Charlton, as leader of the National Party in this House. I also thank Hon Fred McKenzie for holding the fort while the matter was sorted out.

In my earlier comments, I clearly set out the Opposition's position with regard to this Bill and members will recall that I was severely critical of the Minister in another place, Hon Gavan Troy, for the manner in which he has handled this Bill, particularly the amendments which the Liberal Party and National Party attempted to negotiate over a period of months. Since I began my speech on this Bill last week there seems to have been a change on the Government's part and at present negotiations are proceeding in an orderly manner. I hope that some success will be achieved with regard to the amendments on the Notice Paper. I have made a commitment to the Government that I will take the negotiations to the stage they have reached at the moment to my party and it is hoped that we can deal with the Committee stage of this Bill tomorrow. When discussing some of the problems with the workers' compensation Bill – and not forgetting that I made it very clear when speaking the other day that the Liberal Party is very keen to see an effective workers' compensation Bill in place in Western Australia, which does not disadvantage workers and certainly does not impose unreasonable burdens on employers – I made certain comments in respect of the

Workcare program in Victoria. I referred in part to the "Management Review of the Victorian Accident Rehabilitation Council" which was prepared by Flintefield Pty Ltd for the Joint Parliamentary Workcare Committee in Victoria in June 1988.

I said I wanted to refer in particular to certain of the recommendations of this report to place them on record because it is necessary to recognise that unless workers' compensation laws are carefully set out and thought out, we in Western Australia could face the same cost blow-out that is evident in Victoria, which has an unfunded liability of $5 billion at present. The recommendations in respect of the Victorian Workcare scene are directed to that State. However, I think they are worth noting in Western Australia and worth placing on the record because they are the sort of recommendations we should be considering when working through this Bill. Recommendation 2.1 was stated in the following terms –

> That a Workcare agencies' program evaluation unit be established which is to have responsibility for the monitoring of rehabilitation services in Victoria. The program evaluation unit should give priority, through a mission analysis framework, to the establishment of performance standards in client throughput, procedures for needs assessment and outcomes. The program evaluation unit will be required to report, at least annually, on performance standards which have been agreed to by employer, union and provider representatives.

The important point in the recommendation is the ongoing monitoring required in respect of programs put in place. Recommendation 2.2 states –

> That VARC undertake (or commission) a study of the supply and demand for rehabilitation services in Victoria which specifies quantifiable criteria for determining the adequacy of the supply or rehabilitation services and, against these, the current and projected need (if any) for additional services by injury and disease group and region.

Recommendation 2.3 states –

> That an independent review be undertaken of the cost and effectiveness of rehabilitation service provision by both Workcare rehabilitation services and approved rehabilitation providers and that this review provide guidelines for the apportionment of central office capital and recurrent costs incurred in the provision of rehabilitation services by VARC Workcare rehabilitation services.

Recommendation 2.5 reads –

> That if the independent assessment referred to in recommendation 2.3 shows that VARC Workcare rehabilitation services are not as cost effective as those similar services in place by approved rehabilitation providers, then the existing network of Workcare rehabilitation service centres be put up for tender to approved (or prospective) rehabilitation providers in the public or private sectors.

Perhaps I should inform the House that the general provision of the recommendations I have quoted to date concern the ongoing monitoring of the situation; the continued evaluation of the services provided to ensure that they are provided in the most cost efficient method available.

Recommendation 2.8 states –

> That the number of approved rehabilitation providers in Victoria be increased, with approval being extended to private sector organisations that provide not only rehabilitation services but services to firms in the areas of Workcare claims management and injury assessment.

Recommendation 2.14 reads –

> That the proposed program evaluation unit review existing performance indicators and develop and implement operational guidelines for provider service monitoring, such guidelines to be applied to both private providers and Workcare rehabilitation services.

Recommendation 3.1 reads –

> That VARC, in collaboration with the ACC develop a methodology for estimating the

direct and indirect costs of rehabilitation service delivery and report on these costs as part of any ongoing evaluation of cost effectiveness of service delivery.

Recommendation 3.2 reads –

That the present system of central referral at 12 and 40 weeks be replaced by a system of compulsory early intervention and referral by the claims agent of all outstanding claims to an approved rehabilitation provider or Workcare service centre once 21 consecutive days on Workcare benefit have been recorded by the claims agent, are projected by the claims agent or if the injury or disease category is classified to a pre-determined high risk group.

The provisions of the Bill before the House relate to the need to refer at specific periods, but it is important that we recognise the recommendations for the system in Victoria.

Recommendation 4.1 reads –

The VARC introduce a panel study of rehabilitation claimants to assess the experience of individuals in rehabilitation as well as track the experience of those completing a rehabilitation program and subsequent work or not–in–the labour force experience.

That is an interesting proposition, because it is suggesting that those persons who have been in receipt of a rehabilitation service be empanelled to be able to report on their understanding of the benefits, or the disadvantages, which they believe have accrued as a result of those rehabilitation services. This emphasises the monitoring role which is the general principle guiding this report.

Recommendation 4.5 reads –

The VARC establish program targets and program outcome performance measures for the rehabilitation employment program, the retraining assistance program, the workstation change assistance program and the jobs in industry assistance program.

Recommendation 4.7 reads –

That VARC establish program targets and program outcome performance measures for the employment placement and vocational counselling programs.

Recommendation 4.8 reads –

That VARC establish and introduce a formal vocational rehabilitation model to enable a common and consistent assessment of an individual's rehabilitation prospects and progress and that adherence to the requirements and standards of such a model be a requirement for continued licensing as an approved rehabilitation provider or as an element in ongoing effectiveness audits of Workcare rehabilitation centres and their staff.

Recommendation 4.12 reads –

That VARC ensure that all meetings of the approved providers committee be properly minuted and that such minutes be made available to all approved providers and be part of the public record.

Recommendation 5.3 reads –

That a full review be undertaken of the financial reporting and financial control processes of VARC in order to establish appropriate standards and minimum levels of information.

Those are some of the recommendations made by the consultants for the joint parliamentary committee, and they were made because the Victorian Workcare scheme had run out of control. It now faces unfunded liabilities in excess of $5 billion, built up over a very short period of years. That is not the sort of system we need to have operating in Western Australia. We already have enough problems in this State without making mistakes in our workers' compensation legislation which would cause us not to be able to provide the rehabilitation services we all want.

Another matter I will raise, and which is currently under negotiation with the Government, is the amendments which appear on the Notice Paper. I refer to the manner in which the fees of

medical and other providers are assessed. Members will be aware that the current Bill provides that the commission should be able to set the fee after consultation with the medical provider. It is my view, and indeed the view of the Liberal Party, that that is a dangerous situation.

There have been situations in the past where consultation has been required of the Government and the Opposition in respect of certain matters. I well remember an incident which occurred when I was a member of the other place. The Premier of the day told the then Leader of the Opposition that he intended appointing a certain person to a particular position. The Leader of the Opposition said, "Why do you tell me this?" and the Premier said, "Because the Act requires that I consult with you and I have consulted." The then Premier walked off. That was my first very clear indication of consultation not done in good faith, but it actually happened and I was extremely disappointed to see it occur.

Hon P.G. Pendal: Tokenism.

Hon GEORGE CASH: Very much tokenism. It occurred at great cost to the Parliament, because that was never the intention of the consultation, as I understood the Act.

This Bill requires the commission to consult with various groups. I have raised the point, as have my colleagues in the other place, that that consultation is inadequate in the context of the present Bill, because all it requires is for the commission to make a phone call, or approach the medical provider, and it can then say, "We have complied with the Act; we have consulted." The commission can then set certain fees. We in the Liberal Party do not believe that that is a proper way of setting fees. A number of amendments on the Notice Paper clearly indicate, firstly, that proper consultation should take place with medical practitioners and other providers to determine fees. When agreement cannot be reached the Government, by regulation, should be able to set the fee. That would give the Parliament an opportunity to disallow the regulations if it was not satisfied with them.

The Australian Medical Association has contacted members of the Liberal Party and expressed concern about the price control proposals contained in the Bill. I will indicate the thoughts of the Australian Medical Association that were transmitted to me recently in a document which I would be happy to table if members so require. The document is headed "Workers Compensation Act: Government Price Control Proposals", a publication by the Australian Medical Association dated August 1990 as follows –

1. The existing Act recognises the right of the injured worker to choice of practitioner and provides compensation for the costs of medical and associated treatment plus damages. The level of medical fees covered by the Act are established:

   "by agreement between the Australian Medical Association Western Australian Branch and Insurers".

Section 176 is the relevant section of the Act. The document continues –

   Respective interests of the insurer/employee have always been able to be reconciled to the satisfaction of both parties with the essential principles of private enterprise and self regulation being maintained.

2. The proposed Bill seeks to formally vest in the Commission the authority to set fees ie. price control. There is no provision in the proposed Act for negotiation.

   When the Tripartite Council issued its first discussion paper in December 1987 there was a suggestion that Medicare "fees" should apply.

3. The Government has suggested that the Employers were concerned that they did not have a role in the negotiations. The AMA regards that concern as an internal matter between Employers and Insurers which could be easily resolved without the need for legislative change.

4. The Government justifies its position stating in the second reading speech:

   "In recognition of the direct interest that employers and workers have in all aspects of the Workers' Compensation System, the reforms provide that the setting of medical and other health care fees is to involve the commission."

5. Whilst the Commission has a role in the administration of the system it should not be a pervasive role. It should be recognised that an insurance based compensation system does not entitle an administrative arm to exert price control over the private sector. If it were successful the implications would be:

   a. Choice
   Injured employees access to the doctor of their choice would be compromised. Many doctors will exercise their rights not to offer services to the Commission's injured claimants.

   b. Waiting Lists
   Reduced choice will increase waiting lists.

   c. Treatment
   Choice and access as well as cost constraints will compromise the injured employee's right to the most appropriate treatment.

   d. Cost
   As a consequence of the foregoing the cost, both in monetary and personal terms, would increase.

The document continues –

As a consequence the purpose of the Bill to encourage early diagnosis, treatment and rehabilitation with consequential benefits for the Employee/Employer/Insurer the community in general and the ultimate cost of the system will be affected. What is required are positive incentives to enhance the attractiveness of providing services subject to the Workers' Compensation Act.

The fundamental issues re the purpose of the Act vis a vis Compensation and Rehabilitation; the role of the Commission, the role of insurers and employees, the rights of injured employees to be treated by the doctor of their choice and the fundamental rights of private providers need to be kept in clear focus.

If the parties have been able to satisfactorily negotiate mutually acceptable arrangements under the existing legislation for years, why change the legislation? Unjustified legislation which will infringe upon the private sector is intolerable from the medical profession's standpoint and not in the interests of injured workers.

If a change is required it should reflect the fact that the Workers' Compensation System is principally an insurance/compensation system which seeks to encourage early diagnosis, treatment and rehabilitation.

The Government, in response to the Associations representations, however, has sought to remove negotiation from the Act and provide the capacity to control by the Commission.

The Association is currently working with the Workers' Compensation Commission to enhance the operations of the system. As a reflection of this a series of joint seminars are being held. The first two which covered lower back management, rehabilitation and the legislation have attracted great interest. The third, on upper limb injury (see attached) will be held shortly. These initiatives are directed to enhancing the understanding, cooperation, efficiency, and effectiveness of the system.

The Government's proposal, which is ideologically based, if reflected in legislation will potentially not only jeopardise the progress that is being made but exacerbate current problems.

The Association therefore strongly argues that the existing provision should remain. An acceptable alternative would be to provide as is the case under the Tasmanian Act:

> "An employer shall not be required to pay, in respect of medical treatment provided to a worker by a medical practitioner, an amount exceeding the fee published by the Australian Medical Association; and current at the time the treatment is provided, to be charged for that treatment by the Association's

> members in the State or Territory of the Commonwealth in which the treatment is provided."

It is important that members fully understand the views of the Australian Medical Association on the Government's price control intentions. It has been important to record that document in *Hansard* so that medical practitioners and other health service providers may be aware that their views have been taken into account while the Bill is being debated in Parliament.

This afternoon the Government indicated that it would be prepared to recognise a number of matters raised by the AMA; it further indicated that although it might not be prepared to accept the Opposition's amendment as currently worded on the Notice Paper, a similar amendment might be moved by the Government during the Committee stage. It is important that protection be offered in respect of the fees to be determined for health procedures.

My earlier speech on this legislation lasted for around 45 minutes and related to the general principles underlying the Act. Members will recall I suggested that the underpinning of the proposed amendments was generally to reform existing legislation with a view to reduce the suffering of injured workers and the cost of workers' compensation premiums and associated on costs to employers. I now reaffirm those principles. I also remind members that when speaking earlier I indicated that on a number of occasions the Opposition has tried to approach the Minister to sort out the various amendments it believed should be considered; that the Minister in the other place has not been willing to consider the amendments; and after this matter has dragged on for months it has not been until tonight that any indication has been given by the Government. It is the Government members in this House –

Hon Sam Piantadosi: We are members of the Government, too, Mr Cash. I think that is unfair.

Hon GEORGE CASH: I thank Hon Sam Piantadosi for raising that because if I had to rely on the Government members in the other House to see this legislation through to its completion, I would be waiting for the year 2000. It was not members of the other House who saw commonsense; it was members such as Hon Tom Helm, Hon Tom Butler, Hon Sam Piantadosi and the Minister, Hon Kay Hallahan, who sat down and talked it out.

Hon Sam Piantadosi: And we are all members of the Government, so the Government has come to the party.

Hon GEORGE CASH: The Government is lucky that it has members like Hon Sam Piantadosi and his colleagues in it because this Bill was headed for the scrap heap because of the intransigence of some of their colleagues in another place. I do not think that is good enough for people who suffer injuries; they deserve a fair go.

Hon Kay Hallahan: That was what the Minister was seeking to achieve.

Hon Sam Piantadosi: Putting it on the scrap heap was not giving them a fair go, Mr Cash.

Hon GEORGE CASH: That is right. Hon Eric Charlton and I were the last people who wanted to see it thrown on the scrap heap. However, that is where it was heading until people like Hon Sam Piantadosi and his colleagues decided that commonsense would prevail. When Hon Sam Piantadosi asked me if commonsense would still prevail when I was attacking the Minister in the other place, I said that it would. I hope that the negotiations that occurred tonight between the Liberal Party, the National Party and the Government contained a commitment of commonsense at least in this place if not in the other place.

Hon Sam Piantadosi: I am glad to hear that.

Hon GEORGE CASH: I will bet the member is because the Bill was headed for the scrap heap and that would not have suited anyone, especially the Government.

I thank Hon Sam Piantadosi because he has reminded me of a Press release that the Minister for Productivity and Labour Relations, Hon Gavan Troy, issued last week. The first three paragraphs of the Press release state –

> Crucial legislation to ensure injured workers receive faster financial help and earlier rehabilitation has been threatened by the Opposition.
>
> Productivity and Labour Relations Minister Gavan Troy said Liberal Party members

in the Upper House had caved in to sectional interest groups such as the Law Society – completely ignoring the needs of injured workers.

The legislation was going nowhere fast.

I read only three paragraphs and there are errors in those three paragraphs. We have not caved in to any sectional groups. We have tried to represent the various groups in the community. However, more than any group, we have tried to represent injured workers.

As I said to Hon Sam Piantadosi when we were at the meeting together tonight, it should never be forgotten by Hon Sam Piantadosi and his colleagues that, 25 years ago, I was a proud member of the Australian Workers' Union. Members opposite seem to think that membership of unions should apply only to members opposite.

Hon Sam Piantadosi: I assure you that that is not the case. I have some forms; you can still be a member of the union. My old union, the hospitality services and miscellaneous workers union, covers people such as you. I will have a membership form on your desk tomorrow morning.

Hon GEORGE CASH: I cannot guarantee that I will sign up. While I was a member of the union, I watched the way one of the union representatives worked and one thing that I noted 25 years ago was that nothing was too good for him. He had the flashest car and the biggest house and bullied workers into stopping work if the employers did not do what the union representative wanted. That put me off the unions.

Hon Tom Helm: So you left yours?

Hon GEORGE CASH: I left the job and I was not entitled to be a member of the Australian Workers Union.

Hon Sam Piantadosi: You are still entitled to be a member of a union. I can arrange that.

Hon GEORGE CASH: I am not sure that things have changed sufficiently for me to want to be a member of a union.

The Liberal Party and the National Party are keen to see the rights of injured workers protected and I want to see this Bill come to a successful conclusion. However, I am not suggesting that we give up the principles that we have stated during the second reading debate. I invite the Government to ensure that commonsense prevails as we discuss the various amendments on the Notice Paper in the hope of reaching a positive conclusion.

HON E.J. CHARLTON (Agricultural) [9.57 pm]: My comments will be brief as I am sure that members have listened intently to the comments of Hon George Cash on behalf of the Opposition. The National Party fully supports those comments.

The member for Avon in another place, Mr Max Trenorden, is an authority on workers' compensation and this legislation. On behalf of the National Party, he circulated widely the party's position. He consulted with the various groups that are affected by this legislation. The National Party, like the Liberal Party, has over a long period consulted with various people affected by this legislation. Moreover, we have had discussions with the Liberal Party and the Government in an attempt to get the legislation right. As with a lot of other legislation that comes to this place, it seems that the Government comes from two positions. It either comes from a position of research to produce legislation that it wants or it comes from the Trades and Labor Council's position. It then has to proceed to have the legislation implemented and we, on this side of the House, have to wait until the Government and the TLC have agreed to find out where we stand.

Hon Sam Piantadosi: That is unfair.

Hon E.J. CHARLTON: That takes a little time.

Hon Sam Piantadosi: Not true.

Hon E.J. CHARLTON: In this ongoing saga, as with the SESDA legislation which had a very similar background, we have had a to–ing and fro–ing trying to reach a position where commonsense prevails. The main area of concern of the National Party has been that centring around the board and the whole aspect of rehabilitation, of how it will take place, who will be involved and the consequences of it. Members of the Legislative Council are reaching the situation where they will finally get this legislation right. I look forward to the

Committee stage when we will be able to go through the aspects I have mentioned in more detail.

Obviously members on this side of the House support the second reading stage of this Bill and they hope that the legislation will proceed and will assist those people who depend on it. We hope that the final result will be an Act which will benefit all those concerned and that it will not get in the way of those groups trying to carry out their work. I will not go through those groups as they were adequately outlined by Hon George Cash and those people interested may read the debates which have taken place in this House and in the other place in order to ascertain the difference of opinion between the political parties. If this legislation is passed –

Hon Sam Piantadosi: Is there still some doubt about it?

Hon E.J. CHARLTON: There will be if commonsense does not prevail and the amendment I referred to earlier is not incorporated.

Hon Sam Piantadosi: I thought that commonsense had prevailed and that it had been agreed to.

Hon E.J. CHARLTON: Being a gambling man I predict that we will be in a position to get this legislation right and I hope that Hon Sam Piantadosi can convince his red necked colleagues so we will get it right.

Hon Sam Piantadosi: I hope you will have the same power of persuasion over your colleagues.

Hon E.J. CHARLTON: The position is that in our negotiations over the last few days we have agreed to certain amendments and by doing that we will get this legislation right.

I look forward to the Committee stage of the Bill so we can finalise those areas in which there is some conflict. The one thing the National Party has been consistent in pursuing is the results of the pending review and it looks forward to them so the necessary amendments can be incorporated in the legislation.

Hon Sam Piantadosi: We would like to see commonsense prevail there also.

Hon E.J. CHARLTON: Absolutely. It is a funny situation to have a pending review to legislation which is before the Parliament for amendment. While there is nothing wrong with it, it is senseless to present amendments to legislation when a review of it is being undertaken and there is a possibility of changes to amendments already proposed. The National Party looks forward to the results of the review which will be crucial to future changes to the Act. We anticipate that the Government will respond to the National Party's call for reform. The outcome of this legislation will depend on the results of the review. We support the Bill.

HON TOM HELM (Mining and Pastoral) [10.05 pm]: I support the second reading of this Bill. As Hon George Cash stated the reason that the Bill has been introduced is to amend the Workers' Compensation and Assistance Act 1981 and for connected purposes.

First, I ask how many members in this place have had to take up workers' compensation? Hon George Cash indicated that he is one and I inform members that I am another.

The PRESIDENT: I am one.

Hon TOM HELM: Mr President, I thought you might have been. There are few of us in this place who have been in the unfortunate position to have to take advantage of the workers' compensation Act.

Hon E.J. Charlton: In my profession if you don't work you don't get paid.

Hon TOM HELM: Hon Eric Charlton told the House that he does not have any insurance, never mind workers' compensation. He is a safe working farmer and I am sure he does have insurance because he can afford the premiums.

The idea is to keep insurance premiums at a minimum and to reduce accidents. I have been affected by the Workers' Compensation and Assistance Act – I was involved in an accident and had to be laid off work for a few weeks. As in the majority of cases there was no delay in my receiving compensation, but the assistance I received was about half of the wages I would have received had I been working.

Members would be aware that there are many people who fit the criteria, but cannot receive workers' compensation payments. We are only now addressing the problem of rehabilitation and getting people back into the work force. We want to reduce the cost of a member of the work force not being a productive member of our society and to reduce the related psychological problems. This Bill amends the Act to deal with rehabilitation.

Mr President, you may be aware that when you are unable to work because of an injury which is no–one's fault, but part of the working process, there is nothing worse than sitting at home and not being a productive member of society. One cannot provide for his family and has to rely on workers' compensation payments every week. This Bill proposes to rehabilitate people quickly and to take away the guilt of not being a productive member of society.

Hon George Cash commenced his speech on the second reading of the Bill on 21 November and members will note that he placed emphasis on the care providers – the lawyers, doctors, the people who provide rehabilitation facilities and the Insurance Council of Australia. It was only towards the conclusion of his speech tonight that he made any reference to the person this Bill is targeting; that is, the injured worker, the recipient of workers' compensation. I suggest that Hon George Cash is under some pressure from his constituents, as I am. I freely admit to being under pressure because friends of mine have been victims of loopholes in the Act. They have gone from being productive members on full wages to receiving no wages while doctors, specialists and lawyers argued about whether they should receive compensation. Because I have first–hand knowledge of those situations I am stressing the need for this Bill to be passed and for the loopholes in the Act to be closed. Furthermore, lay members of the community must be able to represent cases before the Workers' Compensation Board. That need is equally as important as the need for legal minds to be involved. Insurance premiums are not necessarily high because a worker receives X amount of money, nor because the person representing him receives X amount of money, nor because in some instances professionals are spinning out a case so that they, rather than the worker, may receive more.

The comment by the Minister for Productivity and Labour Relations, in his Press release of 22 November, that crucial legislation to ensure workers receive faster financial help and earlier rehabilitation has been threatened by the Opposition is certainly not untrue. Hon George Cash told us that because of the intransigence of certain members of this Government the Opposition was prepared to submit amendments that would be unacceptable to the Government. It is, therefore, true to say that the legislation could be held up, if not rejected or amended. The Minister was not mistaken on this point, because Hon George Cash confirmed the Minister's comments. Hon George Cash's speech places emphasis on the care givers and on the protection of lawyers, doctors and the Insurance Council of WA. However, we should be emphasising the need to assist the workers, whom this Act is targeting. We should be looking at preventing situations like the one reported in *The West Australian* on 19 November, part of which reads as follows –

> Welder–boilermaker Joe Sousa is expecting to receive his first real workers' compensation cheque early this week after losing the use of his legs in a steel accident nine months ago.

I do not blame the Opposition for Mr Sousa's misfortune; I blame the Act. However, I would blame the Opposition if any more delay occurred in passing this Bill. That must not happen again.

Hon Sam Piantadosi: They have threatened such action.

Hon TOM HELM: The Minister is not mistaken, because Hon George Cash has confirmed that he was prepared to delay, if not reject, the legislation if certain things did not happen.

Hon George Cash: If the Government does not show commonsense.

Hon TOM HELM: I understand that, but Hon George Cash said the Minister was mistaken.

Hon George Cash: If you haven't the commonsense, you should nominate someone who has.

Hon TOM HELM: He said many things. The article continues –

> The 25–year–old Mosman Park man has been living with his parents since he was paralysed when a heavy steel beam broke his spine on January 13.

> He has spent $39 000 on medical treatment but has not been able to get workers' compensation because his employer, I and H Constructions, paid him three weeks' wages in February before going into liquidation.
>
> Due to a technicality, the payment meant Mr Sousa could not get access to the fund provided by the workers' compensation system to cover uninsured workers.
>
> His case was complicated by the fact that I and H Construction's insurer, Commercial Union, has contested its liability.
>
> But Productivity and Labour Relations Minister Gavan Troy announced yesterday that Mr Sousa would be paid for lost wages and part of his medical expenses.

The Minister intervened and corrected a wrong. The Bill proposes that the rights of the insurance company should be taken care of. We are aware of the fact that people can abuse the system and that the Act must contain checks and balances. However, the injured worker, the person who should be the recipient of compensation, should be the first and major consideration. No other consideration should stand in the way of that.

Hon George Cash reminded us that workers' compensation has been in place since the nineteenth century. Basically, society has never shied away from the fact that people injured at work should be able to take care of themselves and their families. Provision has been made for that for over 100 years. People should be able to pay their medical expenses; they should be able to become productive members of the work force as soon as possible. If we continue down the track on which Hon George Cash seems to be leading us, the doctors, lawyers and insurance companies will have a great deal of protection; the bottom line, the reason the Act has been presented, will be lost. No time or money will be left to help people resume their lives, take care of their family responsibilities, pay their medical bills and become productive members of the work force.

Hon Eric Charlton directed his speech more towards the recipient of aid under the workers' compensation Act. He also mentioned the need for a review of the legislation. That review would be a recognition by the Government and a recognition by the Workers' Compensation Board and by members of this House. A review of the system in place at the moment must be undertaken. We have heard tales of people waiting two or three years for compensation. Hon Tom Butler said tonight that one of the members in the painters and decorators union threatened to kill himself. He had been waiting so long for compensation that he did not feel he was a worthwhile member of society and could not provide for his family. That is an example of the psychological pain people feel; people do not feel only physical pain from an accident – when they become partially or totally paralysed – but the pain of no longer being able to take care of their families. If we continue to be concerned about the doctors, the lawyers and the Insurance Council, that important issue will be lost. On too many occasions people are psychologically damaged by accidents as much as they are physically damaged. It is time to address the problems created by the professionals taking a major part in the field of workers' compensation.

When I was injured at work and became a recipient of worker's compensation, it seemed to me that the procedure involved in receiving compensation was routine. The accident that happened to me had happened to many before me and filing the claim followed the logical progression of my employer filling in forms and me filling in forms before I received the compensation. If that is a reflection of the way the compensation Act has been applied so far – and I think it is – there will be less and less need for the medical specialists; less and less need for a legal opinion on a case appearing before the board; and less and less need for appeals by the Insurance Council of Australia or its members.

It seems to me that with the aid of modern technology, the ability to document a person's case history, and the ability for the board – whether that comprises lay persons or legally or medically qualified persons – to refer to previous cases, the insurance premiums paid by employers could be reduced and the time that people spend without their being rehabilitated could also be reduced. The bottom line is that the longer the employee is off work, the less able he will be to get back into the workplace, so a cost is associated with that injury. It is necessary not only for society to underline the care that it has expressed for more than 100 years for workers who are injured but also to follow that through with a statutory obligation to get those injured workers back to work as soon as possible. That matter can be

addressed only by providing those workers with the financial ability to pay for appropriate medical expenses and also with the psychological ability to fit back into the work force. When I had my accident, I had 110 stitches in my leg and was off work for six weeks, and even though I practically lived at my workplace, it was difficult for me to get back into the work routine. I was a rigger, and it was something else to get back into rigging work. I did not receive any physiotherapy, nor did I receive any psychological counselling – not that I needed it.

Hon Derrick Tomlinson: You got a certificate to prove that, did you?

Hon TOM HELM: I think members of this House should have a certificate before they get a job in this place.

Hon George Cash: Did you say you had 160 stitches?

Hon TOM HELM: One hundred and ten. Does the member want to see the scar?

Hon George Cash: In your head?

Hon TOM HELM: In my leg.

This Bill recognises that injured workers must be sent back into the work force to do a productive job.

We should not over emphasise the protection that is required for professional insurance bodies, of which I would suggest the Insurance Council of Australia is the most important because that is the body to which the premiums are paid and from which the money is supplied. A rumour was going around the place that the Labor Party or the Trades and Labor Council of Western Australia wanted to have a single insurer. I do not blame Mr Cash for his placing a lot of emphasis on the Workcare system in Victoria and on the absolute fiasco that has occurred in that State. I will set members' minds at rest by saying that there is no possibility that we will go down that path. We have a system which provides that employers can claim exemption from the workers' compensation provisions and insure themselves, depending on the viability of their enterprise, although in some cases that can cause problems. We do not want a single insurer, and we do not want the problems which Victoria has experienced with workers' compensation and rehabilitation.

The thrust of the legislation is about an application of commonsense. It has been brought to our attention, and is fairly well understood in our society, that some people have been accused, some rightly and some wrongly, of ripping off the compensation system. However, I suggest those instances are so insignificant as to be negligible because we read more in the newspapers about those workers who are affected by the non–provision of compensation because of a loophole in the legislation than about those people who are photographed doing the gardening when they are supposedly suffering with a bad back. I refer to the article which I read earlier, entitled "Timely aid by Minister for injured man".

I do not want to go into detail. I have no doubt that on both the Government side and the Opposition side there is a willingness to address this problem sensibly. It may be shown in the fullness of time that this legislation does not address certain matters, and if it does not, that is something we will need to address at that stage. We must look at the application of commonsense and at our ability to amend the Act to ensure that we are targeting the recipients of compensation and rehabilitation rather than taking care of the professionals who can get wrapped up in the compensation system.

If we can reduce the incidence of disputed workers' compensation claims by a commonsense application of the Act – which is the reason that we want to establish a database to itemise previous cases – and if we can reduce the premiums paid by employers, we will reduce also the costs of production. It will no longer be a case of a person with a bad back doing the gardening and claiming workers' compensation, nor a case – and this does not come into the newspaper headlines – of a lawyer, doctor or some other specialist or professional person stringing out the situation, knowing that the premiums will be paid and that he has the ability to make some more money out of the situation. However, this is not true in every case, and I suspect that we are more suspicious than we are capable of proving those cases.

The fact is that we have workers who cannot resolve a disputed claim; the forms have been filled in, and everything has been done correctly, but they still cannot receive compensation. We must not forget that before a person can claim compensation he must pay for a

specialist's opinion. The company can also get a specialist to report confidentially on that person for the insurance company, but the injured person is not made aware of the content of that report. As Hon Peter Foss said, we may suspect abuse of the system more than there are cases to support it, but while a person is ill, injured or incapable of providing for himself he can become paranoid and think that the whole world is against him. The person may think that the professionals no longer care about whether he will get back to work or whether he will get compensation and that they care only about the amount of money they will make out of his misfortune. We should put ourselves in the place of a person like Mr Sousa, who had to wait nine months to receive compensation, but who in the meantime had to pay for his medical expenses. We could not blame a person such as Mr Sousa for thinking that the people who are responsible for the workers' compensation legislation are responsible for the delay in his getting what he would be entitled to under any other circumstances.

I am asking for recognition of the thrust of the Bill and what it needs to do, and for members to adopt a commonsense view. That is to say, once the database is put together – and we can start with all of the cases before the Workers' Compensation Board at present – and once we have the system which is recognised now, there are people who will fit the bill in every respect. They are those for whom the insurance companies will not dispute the claim, and who will not necessarily have to get another specialist's report or physiotherapist's report, but who will be recipients of what they are entitled to under the Act because they will be able to refer to the database and the precedent that has gone before. That is the whole point of the Bill.

I understand that is the case with the workers' compensation provisions now in place in Victoria under the Workcare scheme, the single insurer. The single insurer is the Government or a Government agency, and people think the Government is like a milch cow; that is, a bottomless pit from which money appears. Again, we do not pick up stories of the people who are injured or of recipients of workers' compensation ripping off the system, but we do pick up stories about the professionals and their activities, and how they have helped to put the Workcare scheme in Victoria $5 billion in debt – I think that is unfinanced debt. It will take them a long time to get out of that and there cannot be any accusation that members on this side of the House want to go down that track. There will be no need for that at all.

I emphasise to the House the aims of the Bill. They are quite simple, and to a certain extent the Opposition has thrown up a smokescreen. The constituents of members opposite will obviously and quite rightly put pressure on them to make sure there are no loopholes in the Bill which will mean members of the Insurance Council of Australia pay out more than they have to.

Hon George Cash: Talking about constituents, I reckon we have more of the working people supporting us now than you do. Don't worry about that.

Hon T.G. Butler: By crikey!

Hon George Cash: I agree with the President of the Australian Labor Party – by crikey!

Hon TOM HELM: I am still a member of the mighty Metal Workers Union, and if I were somebody in the work force now and picked up the speech Hon George Cash has made – which said that nothing was too good for union organisers, who have the best cars and all they want to do is to go out on strike – I would not gain much benefit from reading that kind of tripe. For Hon George Cash to say that he represents more workers than do members of the Government flies in the face of the facts. He does not like unions; he is not a member of a union now; he did not like being in a union when he was in one.

Hon T.G. Butler: He did not say they represent workers.

Hon TOM HELM: I thought he did.

Hon T.G. Butler: No.

The PRESIDENT: Order!

Hon TOM HELM: I am sorry, Mr President, I misrepresented what Hon George Cash said.

Hon George Cash: Only about 33 times tonight!

Hon TOM HELM: However, that is what we have from Hon George Cash and one has only to read his speech to pick it up. He should not be ashamed of that – someone must look after

these matters. We are talking about workers' compensation and the cost in Victoria, and the premiums employers must pay. We were warned by Hon George Cash that the cost of insurance was a high wage cost for employers. We are both on the same track. We want to cut that cost by using fewer and fewer professionals – the lawyers in our society and the specialists who are gaining from someone else's misfortune. This is only a suggestion, it is not set in concrete, and that is the reason the review is taking place.

Hon Sam Piantadosi: It is a rip-off.

Hon TOM HELM: I would not call it a rip-off.

Hon Sam Piantadosi: I would, and I have the evidence.

Hon TOM HELM: I would not go as far as that. When the Workers' Compensation and Assistance Act 1981 was first introduced there may have been a need for lawyers to do their interpreting and whatever else they do and to get the money or whatever it is they get. However, I suggest – and it is only a suggestion – that lay people who appear before the board to represent workers may be the equal of those representatives who have been trained in the legal profession, and they will be helped by this database and this ability to put on record cases that have gone before so that a procedure is set down. As Hon George Cash has emphasised, it will reduce that component of the employer's wage cost; it will reduce the necessity of the employer to pay insurance premiums, so he will pay lower premiums than he pays now.

I want to hit the same target, but from a different angle. What we as a society get is what was first proposed in the nineteenth century; that is, to give the worker the ability to earn an amount of money and to pay for the medical expenses he has to undergo, and to get back into the work force as soon as he can. I understand that under the Workers' Compensation and Assistance Act there is no ability for rehabilitation to take a major role, but there is a strong emphasis now to take all those things into consideration.

I do not believe the Opposition and the Government are far apart at all in the way we are approaching the Act, because the target is basically the same. The only difference between us is who we represent when we stand in this Chamber. I have been a recipient of workers' compensation and I am asking members in this place to support this Bill for the very reasons that the provisions were supported in the nineteenth century; that is, to get workers back into the work force and to give some nobility and pride back to those who have been injured through no fault of their own.

Hon P.G. Pendal: You might even be able to get a few workers back into the Labor Party.

Hon TOM HELM: They could not get any workers into the Liberal Party – they proved that in Maylands and Fremantle. No workers would ever go to the Liberal Party.

Hon P.G. Pendal: It was an absolute embarrassment.

Hon TOM HELM: Cottesloe was another place – that is the evidence before us.

The PRESIDENT: Order!

Hon TOM HELM: It is not a time to get on our high horse and make political points about this. It is a time to recognise what the Bill is about and to be conciliatory. I support the Bill.

Debate adjourned, on motion by Hon Sam Piantadosi.

ACTS AMENDMENT (GAME BIRDS PROTECTION) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Kay Hallahan (Minister for Planning), read a first time.

Second Reading

HON KAY HALLAHAN (East Metropolitan – Minister for Planning) [10.39 pm]: I move –

That the Bill be now read a second time.

Hon P.G. Pendal: Is this a game bird?

Hon KAY HALLAHAN: This Bill will put the Government's intention to ban recreational duck shooting into effect. This move is based on the principle of how we should treat our native wildlife and is attuned to contemporary community attitudes.

The principle we are enacting with this legislation is that our native wildlife should be protected, admired and respected – not shot for pleasure. It is based on the widespread view that the institutionalised killing of wildlife for fun runs counter to the environmental sensitivity to which our community increasingly aspires.

This Bill seeks to protect indigenous ducks, geese and quail from being shot for recreation and to eliminate the environmental damage caused by shooters to the State's fragile wetland nature reserves. Ministerial discretion to declare open seasons on ducks, geese and quail so that they can be shot for sport will be removed from the Wildlife Conservation Act, as will the capacity to prescribe licences in the regulations to allow recreational duck shooting.

An ability to make regulations to control the taking of fauna subject to a damage mitigation arrangement will be retained in the Act. It is wrong for nature reserves to be killing fields for duck and quail shooters when the reserves have been established to preserve protected fauna and their environment. Saving provisions in the Conservation and Land Management Act affecting the classification of certain nature reserves as shooting or hunting areas, and the regulations governing the taking of game species, will be repealed as part of the ban on recreational shooting of ducks and quail.

As a matter of principle the Government opposes the institutionalised slaughter of any wildlife for fun, particularly when there is no good reason for doing so.

I commend the Bill to the House.

Debate adjourned, on motion by Hon P.G. Pendal.

MISUSE OF DRUGS AMENDMENT BILL

Returned

Bill returned from the Assembly with an amendment.

The PRESIDENT: Order! I called for order twice during the reading of that message. When I call order, Hon P.G. Pendal should not be rude to the House by continuing to talk to other members. I suggest that the member endeavours to resurrect some manners from somewhere.

Assembly's Amendment – In Committee

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

The amendment made by the Assembly was as follows –

Clause 2.

Page 1, lines 6 to 8 – To delete the lines and substitute the following –

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Hon J.M. BERINSON: I move –

That the amendment made by the Assembly be agreed to.

This is an amendment of a purely technical nature and arises from the fact that the Misuse of Drugs Amendment Bill and the Crimes (Confiscation of Profits) Amendment Bill were intermeshed. The date of effect of the Misuse of Drugs Amendment Bill was, in the original draft, expressed to be the date on which the Crimes (Confiscation of Profits) Amendment Bill came into effect. However, as a result of a special expedition which was given to the latter Bill, it has already been proclaimed. Therefore, it is not possible for the Misuse of Drugs Amendment Bill to come into effect on the same day as the other legislation. This amendment will result in the Bill taking effect from the day of Royal assent, and I understand that that will either be tomorrow or Thursday.

Hon DERRICK TOMLINSON: The Opposition supports this amendment. In so doing I indicate that one of my colleagues, who has been in this House for a considerable number of

years, made an observation that in all the time in which he has been a member of this place he has never seen such a day of chasing business around the Notice Paper; we have done this very much in the same way as a mad dog chases his breakfast.

Hon T.G. Butler: How fast can a mad dog chase his breakfast?

Hon DERRICK TOMLINSON: It depends upon how much breakfast the mad dog has had, and it depends upon the madness of the dog; the only way to answer that question is to chase a mad dog, and that might be an adequate occupation for Hon Tom Butler!

We have been chasing items around the Notice Paper today and it is somewhat of a reassurance to notice that similar mistakes have been made in another place. However, unlike the leader of our House, the leader in the Assembly was not able to put the Bills in a proper sequence so that they were dealt with in the required order. That does not seem to have been possible and, as a consequence, the Legislative Council has been called upon to put things right. We do so with considerable pride. Thank God for the upper House!

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

Report

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

MOTION - SITTINGS OF THE HOUSES

Legislation Process – Management of Business Concern

Debate resumed from 27 November.

HON J.M. BERINSON (North Metropolitan – Leader of the House) [10.49 pm]: As it has been some time since this motion was moved by the Leader of the Opposition, it might be worth reminding the House of its content. The motion reads –

> That it is contrary to the intent of the bicameral system and the interests of good government in this State that this House sit for the purpose of considering legislation when the Legislative Assembly has risen and incapable of participating in the process of legislation and in particular inhibits this House from suggesting proper and necessary amendments to legislation by reason of the inability of amendments to be given effect by the Legislative Assembly.

I thought it was worth bringing this item forward for debate, if only briefly, because of the circumstance which we always face at this time of the year. Despite everybody's best intentions, there has never been a year when there has not been a crush of business towards the end of a session and we have had to make some sort of sensible accommodation in order to meet that position. That requires accommodation between Government and Opposition parties and between the two Houses of Parliament. In general, that works reasonably well.

There really is nothing in either the traditions of the Parliament or anywhere else to suggest that it is contrary to the intent of the bicameral system that Houses should meet other than concurrently. It has been an almost universal practice in the Commonwealth Parliament, for example, for the Senate to sit about two weeks later than the House of Representatives. A quick check of the other States has indicated that that is also the position in almost all of them.

Hon Garry Kelly: Not in Queensland.

Hon J.M. BERINSON: Mr Kelly quite rightly said that it does not apply in Queensland. I am told also that South Australia has somehow managed to adopt the practice of the two Houses concluding their work simultaneously.

Hon George Cash: Similar to what we have done for the last 10 years. I read the statistics the other day and I am sure you will agree that they were the correct figures.

Hon J.M. BERINSON: In any event, whether it has been our practice or not, the point to be made is that it can hardly be argued that it is inconsistent with the nature or intent of the bicameral system that one House should sit a little longer than the other. The reasons we sometimes face a position where the upper House has greater pressure at the end of a session than the lower House are well known. The Legislative Assembly currently has 13 Ministers compared with three sitting in this House. As a general rule, Bills are initiated in the House

in which sits the initiating Minister. That is not an invariable rule. We have had some examples to the contrary in the present session with a view to evening out the business. Only tonight, however, that has been challenged.

Hon W.N. Stretch: Questioned, not challenged.

Hon J.M. BERINSON: I accept that. It has been questioned and it remains the exception to the rule. The result is that, as we come to the end of a session, a larger number of matters are almost invariably initiated and completed in the Legislative Assembly than in this House. That leaves us with the choice of either sitting longer, rushing through business excessively or leaving some business held over.

Hon Fred McKenzie: That is what we used to do, but the statistics don't show that. We used to sit later in the mornings.

Hon J.M. BERINSON: I thank Hon Fred McKenzie for his interjection because I might not have thought of the point otherwise. As he has been good enough to remind me of it, I will elaborate a little. As well as the considerations to which I have referred already, the Legislative Assembly sits considerably longer hours than does this House. The Leader of the Opposition will acknowledge that, even if what he said about the last 10 years in respect of the additional weeks' sitting is correct, it is also correct that, until the last year or so, the Legislative Council has been prepared, as the pressure builds up, to sit much longer than the House as presently constituted sits. We have observed the 11 o'clock rule almost exclusively to the extent that not more than one or two sittings in the whole session have gone beyond that. That is in contrast to the position in the Legislative Assembly where, as the pressure builds up, sittings are extended accordingly. On top of that, the Legislative Assembly's arrangements are such that, even with the deletion of the sitting time on Wednesday nights, it sits longer hours than does this House. Therefore, a combination of circumstances are involved: A larger number of Bills are initiated in the Assembly compared with those that can be initiated here; the Assembly sits for longer hours in each normal week than does this House; and the members of the Assembly are willing, when necessary, to sit longer hours on any particular day than the usual cut off point.

Nothing has been put by the Leader of the Opposition to suggest that this House sitting more days than the Assembly would result somehow in our amendments not being considered. Again, I am reminded by Hon Fred McKenzie to tell the House that there is no disadvantage in our carrying amendments when the Assembly has already risen, provided that, if a prorogation then follows, no objection is raised to restoring uncompleted business to the Notice Paper at the point at which it was previously left. Again, that has been a very standard procedure. It was one of the less admirable of our many innovations recently in this House that, on the last occasion, we were forced to go back to square one and repeat a great deal of debate unnecessarily.

Hon N.F. Moore: You could have passed the prorogation of Parliament legislation which would have overcome that problem.

Hon J.M. BERINSON: I will deal with that at another time because I have further advice on that which suggests it is not as simple as it appears. With or without that, the fact remains that it is a practical way of proceeding and nothing can be said against the restoration of Bills to the Notice Paper at the point they were left after prorogation.

Hon Peter Foss: There is no point in sitting on, either.

Hon J.M. BERINSON: Yes there is, because it means that, rather than have the hiatus which occurs if we have a clean Notice Paper at the beginning of a session – the need to give notice of new business, then have first and second readings, and then allow a week before substantive business can commence – we can deal with substantive business from day one. It is very practical. We would not want to do that with Bills that had a measure of urgency; however, there are many Bills here that could safely be left. They could be passed either unamended, in which case nothing is lost on the additional days, or amendments could be carried for later consideration in the other House.

I do not propose to prolong the debate on this question. However, I think a number of assertions in this motion are wrong and should not be left unchallenged, especially as we move into the later stages of this session.

Debate adjourned, on motion by Hon N.F. Moore.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [11.00 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Duke of Edinburgh Award Scheme

HON BARRY HOUSE (South West) [11.01 pm]: Before the House adjourns I want to bring to its attention a very shameful and embarrassing situation which reflects poorly on the Government of the State of Western Australia and its attitude to young people in this State. I refer to the Duke of Edinburgh Award scheme. As the Duke of Edinburgh is currently in Perth it is very embarrassing to note the desperate situation in which the Government has placed the scheme in this State. The Government has withdrawn its funding from this scheme and in doing so has become the only Government of the many places in which this scheme operates - which includes more than 50 countries - to have totally withdrawn support from this worthwhile organisation.

The Duke of Edinburgh Award scheme began in the United Kingdom in 1956 for boys and in 1958 for girls. The scheme at present operates in 48 countries and a further six countries will enter it this year. Since 1956 the scheme has been adopted on average in two new countries a year. Even Russia and China have shown interest. All depend to some degree on Government support or assistance. The scheme has operated in Australia since 1963, during which time 150 000 Australians have participated. Throughout the world 120 000 people enter the scheme each year. The annual intake in Australia at present is 10 000 - 800 from Western Australia - at a male:female ratio of approximately 50:50. The intake is increasing by about seven per cent each year. It is a significant scheme for young people, and open to all young people between the ages of 14 years and 23 years. Activities can be chosen from a list of more than 300 and must include one from each of the following areas: Recreation, skills, service, and expeditions. The aim of the scheme is to boost personal development among young people, through self esteem, and it provides a very positive challenge for the youth of this State and the world.

Until the financial year 1990-91 the Duke of Edinburgh Award scheme was supported by a grant from the Department for Sport and Recreation. In previous years the levels of grants were: 1986-87 $70 000, 1987-88 $100 000, and 1988-89 $100 000. This year the administrators of the scheme were informed that they would no longer receive funding from the Consolidated Revenue Fund through the Department for Sport and Recreation. That information about the funding cut was received in a telephone call, which is pretty shoddy treatment. After receiving that information the administrators met the Minister for Youth, Hon Gordon Hill, who could not or would not alter the original decision to cut the funding. The people from the Duke of Edinburgh Award scheme were told to approach the Lotteries Commission, which appears to be the only organisation in Western Australia with any money left. A request was submitted for $120 000 to enable it to continue its operations at the current level. A grant of $25 000 was made by the Lotteries Commission but the administrators were told it was a one-off payment and they could not expect to receive further funds. That will keep the scheme going for two and a half months. Following an approach from the Office of the Family, the group was encouraged to submit a proposal to that office with the hope that it will be considered. However, it has been given no positive indication of success. In the meantime it has received many offers of community support from all sorts of sources, but unfortunately no hard cash which is the main requirement at the moment to enable the scheme to continue.

A support organisation, Friends of the Award Scheme, exists. It has previously supported the scheme by providing personnel on a couple of occasions. It is now seeking to supplement the funds from Government sources and also through corporate sponsorship. In time the organisation aims to generate a trust fund so that the scheme can be funded from the interest. That is a long term solution and the short term problems will not be met by that arrangement. The situation in which it finds itself has been summarised very clearly in a letter to the editor of *The West Australian* on 24 November, under the heading "Give youth a go". It states -

> I wonder whether the State Government is seriously committed to helping young West Australians foster ambition, responsibility and pride in their achievements.
>
> I refer to the end of government funding for the Duke of Edinburgh's Award Scheme

in WA, yet another victim of the Government's desperate plight to reduce its monetary outlays.

Sure, there is a need to economise by improving the efficiency of government departments. But why mortally wound a youth scheme which has proved to be outstandingly successful in 48 countries of the world and which introduces about 1000 young West Australians every year to adventure, community service and other activities?

It has been said that in terms of personal development, the scheme provides the best return per dollar of any school or training scheme in Australia.

It would be ironic and downright shameful if the founder of the scheme, Prince Philip, were to encounter a for–lease sign on the window of the scheme's WA office when he visits Perth next week.

Make no mistake, unless the private sector replaces lost annual funding of $70,000–75,000, the office with its two permanent staff members will close.

That is the situation as it stands at the moment and I felt obliged to bring it to the attention of the House. I am very embarrassed as a Western Australian that the founder of the scheme should come to this State only to find that the very existence of this scheme is under threat. I appeal to the Government to put an end to this embarrassment and to find some funds within the Office of the Family, or somewhere else, to allow this scheme to continue. It has been duckshoved to many different places.

Hon Tom Helm: Why can't the Duke pitch in – he has a few bob?

Hon BARRY HOUSE: I remind Hon Tom Helm that Western Australia appears to be in danger of becoming the only place in the world where Government support is not provided for the scheme. It operates in 54 countries around the world. We are in a disgraceful and embarrassing situation and I hope the Government will take note and reverse that situation in the next couple of days while the Duke of Edinburgh is in Western Australia.

Question put and passed.

House adjourned at 11.08 pm

QUESTIONS ON NOTICE

ART – PUBLIC ART SCHEME
Performance Assessment Criteria

1109. Hon J.N. CALDWELL to the Minister for The Arts:

What is the proposed public art scheme and what criteria are to be used to assess its performance?

Hon KAY HALLAHAN replied:

The public art scheme has been proposed to integrate art as part of the design, construction and landscaping of State Government capital works projects. The scheme is one means by which the State Government intends to improve the quality of public places. Benefits will arise from enhanced public buildings and areas for the community, commercial retailers and the tourism industry. The scheme is intended to provide a model to local government and the corporate sector.

To further these aims the Government has established a task force. Its brief is to –

- establish an art in public places scheme in Western Australia
- advise Government on application of the scheme both to buildings and public spaces
- select strategic projects
- implement pilot projects
- develop materials and plan an education program for State and local government
- provide models for the corporate sector.

The criteria of performance will be the extent to which this brief is fulfilled. The task force has put forward proposals for a number of pilot projects which will be announced shortly.

Schemes of this kind have been long established in the United States of America, Italy, France, Britain and Scandinavia.

SEWERAGE – CLARKSON AND MERRIWA ESTATES, QUINNS ROCK
Mindarie Keys Development Connection

1116. Hon GEORGE CASH to the Minister for Police representing the Minister for Water Resources:

(1) Is the sewerage system which services the Clarkson and Merriwa estates at Quinns Rocks connected to the same system which services the Mindarie Keys development?

(2) If not, will the Minister provide details of the system to which it is connected?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response –

(1) Yes.

(2) Not applicable.

AGRICULTURE PROTECTION BOARD – AGRICULTURE DEPARTMENT
Amalgamation Consideration

1120. Hon N.F. MOORE to the Minister for Police representing the Minister for Agriculture:

(1) Is the Government considering the amalgamation of the Agricultural Protection Board with the Department of Agriculture?

(2) If so, when is a decision likely to be made and what is the rationale behind the considerations?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response –

(1)–(2)

As part of the overall Government determination to ensure the public sector is efficient and operating at minimum cost, possible areas of closer integration between the Department of Agriculture and the Agriculture Protection Board are being examined. No timetable has been set.

WINDMILLS – PUBLIC WINDMILL, PAYNES FIND
Operation Cessation

1122. Hon N.F. MOORE to the Minister for Police representing the Minister for Water Resources:

(1) Is it proposed to cease operating the public windmill at Paynes Find?

(2) If so, what is the reason for this decision?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response –

(1) The Water Authority has not provided for the maintenance of the public windmill since 1988.

(2) The Water Authority no longer makes provision for the operation and maintenance of independent sources like the one at Paynes Find because it is extremely difficult to justify the high costs associated with continued maintenance. However, the authority has advised that it will be pleased to consult with any local interest groups or individuals with a view to handing over the facility so that it can be retained as a source of water for the benefit of the local community.

DAMS – HARDING DAM
Millstream Water

1123. Hon N.F. MOORE to the Minister for Police representing the Minister for Water Resources:

(1) What is the capacity of the Harding Dam?

(2) What is the current quality of water in the dam?

(3) Is there any reason why the maximum flood level of the dam is 76 metres when the full supply level is only 60 metres?

(4) At current consumption rates and assuming there is no rainfall, how long will it be before the dam is empty?

(5) Is water from Millstream currently being used on the Pilbara coast?

(6) If not, is consideration being given to using Millstream water?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response –

(1) 64 million cubic metres.

(2) All water quality characteristics are well within the National Health and Medical Research Council criteria for drinking water in Australia.

(3) The maximum flood level is 76 metres, however the spillway level at 60 metres allows for the controlled discharge of flood water and also dictates the normal top storage level.

(4) April 1991.

(5) No.

(6) Millstream is the secondary source and will be used if cyclonic rains discolour the Harding Dam water, or when the existing dam water is depleted.

WATER BORES – MT LESUEUR AREA
Design Specification Requirement – Future Power Station

1127. Hon MARGARET McALEER to the Minister for Police representing the Minister for Water Resources:

Would the Minister advise whether it is necessary for people wishing to put down a bore in the vicinity of Mt Lesueur to design the bore to a specification which would allow for a possible draw down for a water supply for a possible power station in the future?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response –

When designing the specifications for their individual bores, people should be aware of and allow for increased drawdowns that will result from increasing general use of the aquifer, regardless of whether a power station is constructed or not.

METROPOLITAN MARKETS, CANNING VALE – SECURITY GUARDS
Employment Increase

1153. Hon MURRAY MONTGOMERY TO the Minister for Police representing the Minister for Agriculture:

(1) Is it correct that the number of persons employed as security guards at the metropolitan markets has increased since the markets opened at Canning Vale?

(2) Is it also correct that this increase was in response to a request by traders for improved security?.

(3) Is it correct that the traders agreed to have their rents increased to pay for these additional security guards?

(4) Have the additional security guards been dismissed or been given advice that they are to be dismissed?

(5) If the answer to (4) is yes, when will the rents go down and by how much?

(6) Has the number of persons employed in the markets administration increased recently or are there plans to increase the number?

(7) If the answer to (6) is yes, by how much and why?

(8) Is it correct that many persons employed in the administration of the markets have recently had their salary levels increased?

(9) If the answer to (8) is yes, how much and why?

(10) Is it correct that the deputy manager of the markets is now being provided with a car or has been promised a car?

(11) If the answer to (10) is yes, why?

(12) Can the Minister assure the House that the cars supplied to the manager and deputy manger are being used in the manner intended and how is this being monitored?

(13) What have been the percentage of overall operating costs that have been attributable to –

(a) administration; and

(b) security

at the metropolitan markets for each of the last seven years?

(14) Has the productivity of the market's administration increased in recent years and have the administration staff been paid productivity–based pay increases?

(15) If the answer to (14) is yes, will the Minister explain how the savings achieved through this increased productivity have been reflected in the rents being charged at the markets?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response –

I am advised by the Metropolitan Market Trust that –

(1) The trust does not employ security guards but employs market inspectors who as part of their duties include security. At the time of opening at Market City the trust employed 10 full time market inspectors and two part time inspectors under fixed term contract. This is still the current situation.

(2) The trust increased the security coverage of the retail shopping area following four break–ins. Some tenants of the shopping centre had expressed concern at the spate of break–ins at the retail centre. The increased coverage was achieved by increasing the hours worked by the two part time inspectors from 36 hours per week to 51 hours per week.

(3) The provision of security is chargeable as part of outgoings under the terms of the trust's retail shop leases and therefore security provided by all staff to that area of the market is chargeable. Outgoings are set at the beginning of the lease year and adjusted at the end of the lease year.

(4)–(5)
No.

(6)–(7)
No. At the time of relocation, the trust's full time equivalents – FTEs – in the administration was 10 – including three contract positions. Current FTE is 10.5, however contract positions have been replaced by permanent staff.

(8)–(9)
Salaries paid to trust administrative staff are adjusted in accordance with the Government officers salaries, allowances and conditions award 1989. Other salary adjustments in the last 12 months were –

Accounts clerk, level 1 promoted to accounting and systems control officer, level 2.

Information officer, level 2 filled the vacant position of coordinator of marketing and industry services, level 2-4.

(10)–(11)
The assistant manager is permitted to use a trust vehicle for commuting between home and work. Under the guidelines of the Western Australian Government executive vehicle scheme the option has been chosen to change this vehicle from private plates to Government plates.

(12) The trust complies with Western Australian Government policy and procedures established by the Motor Vehicle Policy Committee.

(13) Security costs are incurred for equipment, market inspectors and administration. The trust's accounts do not readily distinguish these areas.

(14) In accordance with their respective awards, all trust staff have received increases based on productivity improvement.

(15) The rents charged in the retail shopping area of the market are commercial rents. In the wholesale area of the market the rents are below commercial rents. Any savings made in staff costs will not result in rent reductions in either of these areas.

HEALTH – PATIENT ASSISTED TRAVEL SCHEME
Petitioner Letters – Ministerial Assistance

1187. Hon N.F. MOORE to the Minister for Planning representing the Minister for Regional Development:

(1) Did the Minister's office or departments contribute in any way towards the production and/or postage of letters relating to the patient assisted transport scheme which were sent to persons who signed a petition which was tabled in the Parliament?

(2) If so –

(a) why; and

(b) what was the cost?

Hon KAY HALLAHAN replied:

The Minister for Regional Development has provided the following reply –

(1) Letters relating to the patients assisted travel scheme petition tabled in Parliament were produced on stationery fully paid for through my electorate allowance. Volunteers worked to fold and send those letters. Postage was paid from my electorate postage allowance.

(2) Not applicable.

HEALTH – PATIENT ASSISTED TRAVEL SCHEME
Review

1188. Hon N.F. MOORE to the Minister for Planning representing the Minister for Health:

(1) When will the review into the patient assisted transport scheme be completed?

(2) Will it be made public and available for public comment before its recommendations are considered for implementation?

(3) If not, why not?

(4) Did the Minister's office or department contribute financially to the production and/or postage of letters relating to the PAT scheme which were sent by the Member for Ashburton to signatories to a petition tabled in Parliament?

(5) If so –

(a) why; and

(b) what was the cost?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply –

(1) The review is expected to be completed within the next few weeks.

(2)–(3) The review process has already involved extensive public input and the issues which have been raised are being taken into account in formulating the new guidelines under which the scheme will operate. Once the new guidelines are finalised they will be widely distributed.

(4) No.

(5) Not applicable.

PET MEAT - COLOURED DYE LEGISLATION

1196. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Health:

(1) Is it correct that the Government is going to legislate to have pet meat injected with a coloured dye?

(2) If so, why?

(3) When is it intended the legislation will be introduced?

(4) Will it be by legislation or regulation?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Yes, by amendment to the Health (Pet Meat) Regulations 1990.

(2) To reduce the possibility of pet meat being sold or submitted for human consumption and to bring WA into line with all other States in Australia.

(3) An amendment to the Health (Pet Meat) Regulations was gazetted on Friday, 16 November 1990 and they will come into operation on 1 July 1991.

(4) By specific regulation - Health (Pet Meat) Regulations 1990.

HOUSING - EXMOUTH
Waiting List

1202. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Housing:

(1) How many persons are on the waiting list for housing in Exmouth?

(2) What type of housing is required, ie two bedroom etc?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

(1) As at 31 October 1990 there are 69 people on the waiting list for housing in Exmouth.

(2) The type of housing required is as follows -

1 bedroom - 18
2 bedroom - 31
3 bedroom - 19
4 bedroom - 1

SCHOOLS - SPENCER PARK PRIMARY SCHOOL
Gutters and Downpipes

1207. Hon MURIEL PATTERSON to the Minister for Planning representing the Minister for Education:

(1) Is the Minister aware that the Spencer Park Primary School gutters and downpipes empty on to the surfaced quadrangle area where the children play?

(2) If so, what is planned to remedy this situation?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

(1) Yes.

(2) Within the Ministry of Education's asbestos management plan, it is proposed to undertake improvements to the water disposal systems, including the installation of soakwells, at a number of schools. The situation at Spencer Park Primary School will be considered within this program.

PASTORAL LEASES – ABORIGINAL AND CONSERVATION EXCISIONS

1211. Hon P.H. LOCKYER to the Minister for Lands:

(1) What are the names of the pastoral leases that have areas of Aboriginal excisions or conservation areas?

(2) Have the present lease holders been advised of these claims?

Hon KAY HALLAHAN replied:

(1) Presumably the honourable member is referring to the excisions required from pastoral leases in the context of the proposed pastoral lease tenure legislation. In that case, the following stations are the subject of Aboriginal and conservation excisions –

Aboriginal:

Brooking Springs
Fairfield
Gogo
Yalleen
Kalyeeda
Thangoo
Rocklea
Pentecost Downs
Tarmoola
Lamboo
Cherrabun
Warrawagine
Mardathuna
Mooka
Nita Downs
Tableland
Moola Bulla
Ivanhoe
Bedford Downs

Conservation:

Roebuck Plains
Texas Downs
Osmond Valley
Mabel Downs
Sophie Downs
Carlton Hill
Kimberley Downs
Fairfield
Brooking Springs
Fossil Downs
Gogo
Mt Hart
Charnley River
Waterbank
Anna Plains
Juna Downs
Nanga
Carrarang
Dirk Hartog Island
Wooramel
Edaggee
Brick House
Hamlin
Carbla
Yaringa
Exmouth Gulf
Tamala
Mardathuna
Williambury
Minnie Creek
Lyons River
Bidgemia
Jimba Jimba

(2) Yes.

PASTORAL LEASES – ABORIGINAL GROUPS

1212. Hon P.H. LOCKYER to the Minister for Lands:

(1) Hon many pastoral leases in Western Australia are held by Aboriginal groups on individuals?

(2) What are the names of these leases?

Hon KAY HALLAHAN replied:

(1) Twenty six pastoral leases are held by, or for, Aboriginal groups in Western Australia.

(2)

Pantijan
Doon Doon
Nookanbah
Millijiddee
Frazier Downs
Billiluna

Lake Gregory	Lalla Rookh
Carson River	Mt Welcome
Mt Anderson	Peedamulla
Mowanjum	Pippingarra
Bow River	Walagunya
Glen Hill	Callawa
La Grange	Koongie Park
Carlindie	Elvire
Coongan	Mt Barnett
Kangan	Ullawarra

SCHOOLS – EAST CARNARVON PRIMARY SCHOOL
Maintenance Painting

1214. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Education:

(1) When was the last time the East Carnarvon Primary School received a total maintenance painting?

(2) When will the next painting take place?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply –

(1) October 1983.

(2) Whilst the school is listed for maintenance painting, the actual commencement of the work will depend on the future availability of funds.

HOMESWEST – HOMES, EXMOUTH
Building Statistics and Waiting List

1216. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Housing:

(1) What is the total number of Homeswest homes in Exmouth?

(2) What are their categories; ie. units, three bedroom, etc?

(3) How many units or houses will be built in the 1989–90 budget in Exmouth?

(4) What is the present waiting list in Exmouth?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply –

(1) Homeswest has 54 units of accommodation in Exmouth. Apart from these, there are another 63 for use by Navy base personnel only.

(2) The categories of the Homeswest units are –

Town houses	2 bedroom	34
	3 bedroom	10
Single detached	3 bedroom	9
	4 bedroom	1

(3) (a) 1989–90 – nil.

(b) 1990–91 program is as follows –

- Six aged persons units on a joint venture basis with the Shire of Exmouth.
- 2 x 3 bedroom and 1 x 2 bedroom cluster units.
- 8 x 3 bedroom and 1 x 4 bedroom special acquisition from the Australian Protection Services.

TOTAL – 18 UNITS

(4) The present months of allocation are –

1 bedroom	September 1988
2 bedroom	August 1989
3 bedroom	February 1990
4 bedroom	February 1990

HOMESWEST – RETIREMENT UNITS, DENHAM
Shark Bay Shire Joint Building Project

1217. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Housing:

(1) Has the Government examined a joint project with the Shark Bay Shire to build further retirement units in Denham?

(2) What was the proposal submitted by the Shark Bay Shire?

(3) Why was the proposal not proceeded with?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply –

(1) Homeswest is considering a review of its Capital Works Program, which includes a possible joint venture project with the Shire of Shark Bay at Denham.

(2) No proposal has yet been received by Homeswest from the Shire of Shark Bay... Homeswest is awaiting a response from that local authority to a "Kit of Information", which was posted to them on 24 September 1990.

(3) Not applicable.

PRAWNS – EXMOUTH GULF
Harvest

1218. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Fisheries:

(1) What was the amount of prawns harvested in Exmouth Gulf in –

(a) 1985;

(b) 1986;

(c) 1987;

(d) 1988;

(e) 1989; and

(f) 1990?

(2) How many trawlers operated in each of these years?

Hon GRAHAM EDWARDS replied:

The Minister for Fisheries has provided the following response –

(1)–(2)

The catch and number of boats licensed to operate in the Exmouth Gulf prawn fishery are as follows –

	Tonnes	Boats
1985	1 019	19
1986	1 129	19
1987	1 210	19
1988	1 101	19
1989	853	19
1990	1 100 (estimate)	16

SHARK BAY – USELESS LOOP SALT PROJECT EXTENSIONS
Denham Fishermens Association Objections

1219. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Fisheries:

(1) Is the Government aware of objections by the Denham Fishermens Association to extensions to the Useless Loop salt project?

(2) What steps are being taken to arrange discussion between the association and Shark Bay Salt?

Hon GRAHAM EDWARDS replied:

The Minister for Fisheries has provided the following response –

(1) Yes.

(2) I understand the Denham Fishermens Association submission on the Public Environmental Review for the extension to Useless Loop salt project is before the Environmental Protection Authority. This is a matter for the EPA.

STATE ENERGY COMMISSION – MT JAMES COMMUNITY, EAST OF CARNARVON
Power Provision

1220. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Fuel and Energy:

(1) Has the State Energy Commission of Western Australia been involved in providing power to the Mt James community east of Carnarvon?

(2) What was the cost of the provision of power?

(3) From where were the funds made available for this work?

Hon J.M. BERINSON replied:

The Minister for Fuel and Energy has provided the following reply –

(1) Yes.

(2) The capital works cost was $362 221.36.

(3) The funds were provided by the Department of Aboriginal Affairs.

QUESTIONS WITHOUT NOTICE

NATIONAL CRIME AUTHORITY OFFICE, PERTH – ESTABLISHMENT
Police Ministers' Conference Discussions

861. Hon GEORGE CASH to the Minister for Police:

Is the Minister able to advise the House of any developments to establish an office of the National Crime Authority in Perth which may have been discussed at the Alice Springs Police Ministers' conference last week?

Hon GRAHAM EDWARDS replied:

The matter of the establishment of an office of the NCA in Perth did not come up directly at the Police Ministers' conference or at the IGC, but it was referred to during the course of general discussions on the future directions of the NCA. Justice Phillips did indicate that, following the recent Federal Budget, an office would be opened in this State. I do not have any more information than that, but I will find out more details and advise the member accordingly.

SWAN BREWERY SITE – NEW DEVELOPMENT DECISION

862. Hon E.J. CHARLTON to the Minister for Planning:

Would the Minister outline to the House the reason that the Government has made its new decision for the development of the old Swan Brewery?

Hon KAY HALLAHAN replied:

It is not a new decision; it is a decision which the Government has made over a period of years. The Government has reaffirmed its previous position on it. I thank Hon Eric Charlton for the tone of his question. I have not heard any utterances from him in public, but the public utterances of Liberal Party members have been staggering.

Hon E.J. Charlton: You have not been standing next to me over the last few days.

Hon KAY HALLAHAN: That is true, and I have not noticed any comments from the member via any media outlet.

Hon E.J. Charlton: That is only because I have not had the opportunity.

Hon KAY HALLAHAN: The member's question is fair. The Australian Heritage Commission has assessed the area and is of the opinion that the old Swan Brewery has significant heritage value to Western Australia.

Hon P.G. Pendal: So did St George's Hall before you demolished it – and the stables, which were classified by the Federal Government.

Hon KAY HALLAHAN: Let us carry on with one thing at a time because Opposition members are in an untenable situation and they should hang their heads in shame.

The PRESIDENT: Order! We are doing one thing at a time; that is, the Minister is answering the question asked by Hon Eric Charlton.

Hon KAY HALLAHAN: Thank you for that direction, Mr President.

The earlier development proposed for the old Swan Brewery did gain support from a number of people. Some architects with an interest in heritage matters did feel somewhat uncomfortable with the formality and the dimensions of the development. The Government has taken on board those concerns and I advise members that the board walk across the front of the building and adjoining the river will not be built, the former courtyard will not be built, and the replica of the old stables, which was originally proposed, will not be built.

Hon E.J. Charlton: Why?

Hon KAY HALLAHAN: Because the whole exercise is very much one of heritage preservation. That has resulted from the value that not only the Government but also expert bodies have given to those buildings. Work needs to progress to protect the fabric of those buildings in order to give us a vision of our past heritage. It could become a heritage precinct of value to Europeans and to Aboriginal people. It is possible to have it as an area of reconciliation rather than conflict on heritage matters, as has been its history. It is still possible to achieve that aim.

I do not see anyone with an interest in heritage matters calling for the demolition of the buildings. The buildings, being 100 years old, are of significance; a host of activities have been carried out on that site. Organisations like the Australian Heritage Commission have the expertise and have indicated what is worth preserving.

We may all have ideas about what needs to be preserved, but members of Parliament have to defer to the opinion of experts in the field. The response to the notion of restoring the buildings on a heritage theme and of retaining them for our future has been warm.

SWAN BREWERY SITE – REDEVELOPMENT DECISIONS

Purpose

863. Hon E.J. CHARLTON to the Minister for Planning:

Would the Minister confirm that the Government's latest decision, along with its previous decisions, on the old Swan Brewery site relates more to how the Government came to be owner of the site than to the recommendations of the Australian Heritage Commission?

Hon KAY HALLAHAN replied:

The attitude of the honourable member is quite disappointing. If we listen to the authorities we must accept that these buildings are of very significant heritage value. If members opposite cannot accept that, they have a real problem and should resign on the heritage issue alone. Hon Phillip Pendal should go first because we know that he advises his leader; who said on air that the building should be demolished. That would be heritage vandalism.

Hon E.J. Charlton: How did you come to be the owner of them?

Hon KAY HALLAHAN: The exercise is about preserving buildings on a site which has significant heritage value. The existing buildings, which are deteriorating, are of significant heritage value and represent some of the history of this city, and if they are restored they will be a great asset to this State's future. It would be excellent if they could represent an interpretation of Aboriginal people's spiritual value. All that is possible, and it could be remarkable and wonderful, but that will not be the case if they are not preserved. If the member is indicating to me that the buildings should not be preserved, I am glad that he is not in a position of authority. He would do a great disservice to the State.

Hon E.J. Charlton: I would retain the Aboriginal significance of the buildings by leaving them in peace.

Hon KAY HALLAHAN: They are the words of a person who does not have any strength of purpose in this matter. Unless the member wants to see the weather destroy the roof timbers and the entire buildings –

Hon E.J. Charlton: Make it open space and get rid of it.

The PRESIDENT: Order! I advise members that they are entitled to ask a question to which they can expect an answer. Members are not entitled to ask multiple questions by way of interjection during the course of the Minister's reply. It makes the Minister deviate from the answer to the first question and the result is a long conversation between a member and the Minister, as distinct from questions without notice by all members.

I suggest to the Minister that she complete her answer to the question that the member originally asked and ignore his questions which are by way of interjection.

Hon KAY HALLAHAN: I make it very clear that the whole question is about heritage value. On that criterion the old Swan Brewery should be conserved according to the principles of the Burra Charter. That is a charter about the conservation of buildings of heritage significance, which is accepted internationally as a very good charter of the principles that should apply in such an instance.

Hon P.G. Pendal: It did not help the stables.

Hon KAY HALLAHAN: We always get the stables from Mr Pendal. I do not want to deviate, but the fact of the matter is that there was a fire in the stables. They were deemed to be unsafe, and that is the reason they were demolished. Mr Pendal always tries to lob onto Hon Bob Pearce a nasty connotation in that regard. Mr Pendal is a disgusting person sometimes, and that is one of his continuing disgusting actions.

BURKETT, MR GRAHAM – CHARACTER REFERENCE

864. Hon R.G. PIKE to the Minister for Police:

Last week I said that the Minister was lacking in propriety and was seen by thinking Western Australians to be undermining Commissioner of Police Bull and his Police Force by giving a character reference to Mr Graham Burkett, who was successfully prosecuted by the Police Force, of which the Minister is the parliamentary head. Does the Minister still support his actions in providing that reference?

Hon GRAHAM EDWARDS replied:

I appreciate the telephone calls that I received over the weekend from members opposite who drew my attention to what was said in the House last week and dissociated themselves from the remarks made by Hon Bob Pike. Those members opposite who want to make themselves known can do that, but I would not encourage them to do that because I know how vindictive people like Hon Bob Pike can be.

I stand by the reference that I gave to Mr Burkett, and were Mr Burkett to come to me tomorrow seeking another character reference he would get that character reference. I have a great deal of regard for Graham Burkett and for the commitment he made to the community over the years – in a voluntary capacity when working in various community organisations; as a councillor of the City of Stirling; and as the Mayor of the City of Stirling. I also have a high regard for the contribution that he made as member for Scarborough.

It is unfortunate that matters like this are raised in the manner in which they were raised by Hon Bob Pike. However, I will not go into that too much; I am happy to let other members make a judgment about the matter. Were I Mr Pike, I would not go on too much about references. A Royal Commission has been announced, and it may be that at the end of that Royal Commission Mr Pike will want a reference, so he should not decry too much the giving of references. I stand by my giving that reference. Were Mr Pike ever to visit the land where men walk, he would not leave a footprint.

BEAUFORT STREET BRIDGE – HERITAGE
Eastern Side Destruction Authorisation

865. Hon P.G. PENDAL to the Minister for Heritage :

Given that the Beaufort Street Bridge is regarded as an important part of the public heritage, I ask –

(1) Will the Minister say who authorised in recent weeks the destruction of the eastern side of the old Beaufort Street Bridge?

(2) Will the Minister order an investigation into why that occurred and who was responsible?

(3) Will the Minister tell the House who subsequently erected the plywood barriers to disguise that destruction?

Hon KAY HALLAHAN replied:

I will have those matters looked into if the member will put the question on notice.

SWAN BREWERY SITE – REDEVELOPMENT
75 Car Park Bays – Multistorey Car Park

866. Hon P.G. PENDAL to the Minister for Heritage:

I refer to the old Swan Brewery redevelopment. Would the Minister agree with critics that the proposed 75 car parking bays will be totally inadequate to cater for visitors to that site, and that this will inevitably mean the go ahead of the original multistorey car park, which will scar the side of Kings Park?

Hon KAY HALLAHAN replied:

I want to make it clear to this House, to the public and to the media in the Press Gallery that there will not be a multistorey car park. The question of car parking is certainly under review. At present there is parking for 70 to 75 cars, and that matter will need to be reviewed, but whatever may be the decision about that car park, there will not be a multistorey car park.

Hon Phil Pendal has been talking to the media about hidden agendas and second stage developments because he wants to hide the abysmal position on this issue that is being adopted by him and his leader. The member does not tell the truth. His credibility among heritage people is in rags right now

Hon Phil Pendal has embarked – and sadly he does this every now and again – on a great misinformation campaign to try to take the heat off himself and his raggedy party in respect of heritage matters.

Hon P.G. Pendal: We have you on the run.

Hon KAY HALLAHAN: If the member could get me on the run he would do me a favour. I cannot get time to run.

Hon P.G. Pendal: I wish they would sell you rather than Heathcote!

Hon KAY HALLAHAN: That is a good point. Heathcote is not under threat, but a couple of weeks ago Mr Pendal was saying it must be saved. He is now saying knock down the old Swan Brewery. Consistency is not one of the hallmarks of the member or of his party.

This subterfuge about second stage developments is absolutely untrue, and Hon Phillip Pendal is a very inconsistent and unbelievable character on this issue. I make it clear that this development will be a heritage conservation exercise. These buildings will be restored and will stand in parkland. The formal forecourt and the work about which some people had concerns will go.

Hon Reg Davies interjected.

Hon KAY HALLAHAN: Does the member mind if we listen to public concern and respond to it in a constructive way?

Hon P.G. Pendal: You must have been threatened with the sack or something, the way you are carrying on!

Hon KAY HALLAHAN: Yesterday I had to fly to Albany and I came back rather late. I get tired of juvenile behaviour from the Opposition, and misinformation really gets up my nose.

Hon P.G. Pendal: That is clear.

Hon KAY HALLAHAN: There will be no tavern, multistorey car park or second stage development. The buildings will be conserved, and in five years' time when the member is out of here and I meet him, he will have to concede that the decision to restore those buildings as a significant part of our heritage and history was a good decision.

Government members: Hear, hear!

THEATRE – WESTERN AUSTRALIAN THEATRE HERITAGE
Preservation Attempts

867. Hon FRED McKENZIE to the Minister for The Arts:

Is the Minister aware of any attempts to retain Western Australian theatre heritage?

Hon KAY HALLAHAN replied:

A very interesting debate is going on within theatre circles about the preservation of the history and heritage of the State's theatres. In fact, a theatre collection has been in existence for some 10 years, and it is curated by Mr Ivan King, who would be known to theatre goers in the House. That collection is a great credit to Ivan King. It contains in excess of 8 000 items, and is housed at His Majesty's Theatre.

Theatre should be placed on the national heritage agenda because over the years we have been very rapidly losing much valuable cultural material associated with the theatre, except for that which is housed at His Majesty's Theatre. Some information has been kept on the visits of Dame Nellie Melba and Anna Pavlova but, generally, material associated with significant events which had an impact on our culture has been lost. A huge card collection has been established to record details of performances, performers, visitors and special events. Despite the good efforts of Mr Ivan King at His Majesty's Theatre, the matter needs to be addressed in a coordinated manner nationally. I propose to raise it at a national ministerial and officers' meeting.

PASTORAL LEASES – ABORIGINAL GROUPS
No Conservation Areas Listing

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

I refer to questions on notice 1211 and 1212, and I thank the Minister for her answers to them. Is the Minister aware that of the 26 pastoral leases in Western Australia held by Aboriginal groups, not one is listed as containing areas of conservation, although a large number of other stations containing areas of conservation are listed?

Hon KAY HALLAHAN replied:

I presume the reason is that the Aboriginal leases do not contain conservation areas. I have previously made it clear to members that nearly 600 stations are established in Western Australia and only a small number of those contain conservation areas. It should not be presumed that every pastoral lease will be affected by excisions for conservation purposes. If the member is concerned that the Government is not taking into account conservation issues on leases held by Aboriginal people or organisations, I will have the matter re examined. The second part of the answer to question 1121 indicates that the conservation areas number about 30; it is not a huge list.

PASTORAL LEASES – ABORIGINAL GROUPS
No Conservation Areas Listing

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

Does the Minister not find it strange that although 36 of the 600 properties are listed as containing conservation areas, not one of the 26 Aboriginal leases in Western Australia is listed as containing conservation areas?

Hon KAY HALLAHAN replied:

Of nearly 600 pastoral leases, 36 contain conservation areas. The odds are, therefore, that one in 20 pastoral leases will contain conservation areas. Using statistical formulae and according to the law of averages, one of the 26 Aboriginal leases will contain a conservation excision. The plus or minus factor of the likelihood of that may be zero, five or greater.

Given Hon Phil Lockyer's concerns and the highly contentious nature of the issue, I will have it re–examined and provide him with a response.

PASTORAL LEASES – ABORIGINAL GROUPS
Aboriginal Excisions – Question 1211

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

I refer to the answer to question on notice 1211 in which is listed the number of properties in Western Australia which will have Aboriginal excisions. Why are no properties listed for Aboriginal excisions which are presently leased by Aboriginal people?

Hon KAY HALLAHAN replied:

I am having problems with the credibility of the member's question. We will not be taking chunks out of those stations for Aboriginal people because they are held by Aboriginal people.

PASTORAL LEASES – ABORIGINAL GROUPS
Further Excisions

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

What happens if one of the 26 Aboriginal groups holding pastoral leases in Western Australia chooses to sell one of its properties and one of the Aborigines on those properties wishes some land to be excised? Can an excision occur at a later time?

Hon KAY HALLAHAN replied:

Further excisions could be made to a lease at a later time.

RESOURCES DEVELOPMENT – PROJECTS LISTING
Premier's Reference

872. Hon GEORGE CASH to the Minister for Resources:

I refer the Minister to comments in *The West Australian* of 26 November which suggested that the Premier claimed at the recent opening of the Scuddles base metal mine last Friday that some $3 billion of capital investment had been committed over the past year. Will the Minister provide a list of the resource development projects referred to by the Premier?

Hon J.M. BERINSON replied:

I will be happy to ask the Premier for a list of the projects to which she referred. It would be helpful were the honourable member to place the question on notice for that purpose.

ROYAL COMMISSION – TERMS OF REFERENCE
Police Force Inclusion

873. Hon E.J. CHARLTON to the Minister for Police:

Will the Government consider including the Police Force in the terms of reference for the proposed Royal Commission?

Hon GRAHAM EDWARDS replied:

It is appropriate that the Premier consider what will be included. She has indicated that she will do that and I am sure she will do it capably.

SWAN BREWERY SITE – EXPENDITURE
Roads and Other Works

874. Hon P.G. PENDAL to the Minister for Heritage:

(1) Will the Minister confirm that the Government has spent $11 million on the Swan Brewery site for associated road and other works for a project that is to be worth $7.5 million?

(2) Will she confirm the originally stated intention of the Government to rebuild a replica of the old stables using the original bricks?

Hon KAY HALLAHAN replied:

(1) I can confirm that approximately $11 million has been spent, including the purchase price and the improvements that have been made around that area, and the associated holding costs. I do not know where the member obtained the information that the project is worth $7.5 million. No valuation as such has been put on it. The Premier's statement on Sunday said that the cost of the work to faithfully restore those buildings would be approximately $7.5 million.

(2) I cannot quite understand the second part of Hon Phillip Pendal's question. I indicated to the House earlier today that the building of a replica of the old stables on the other side of Mounts Bay Road would not go ahead. There will be a restoration of the buildings as they stand now.